

IN THE NAME OF ARRESTING CRIME

Violations of Children's Rights by the Police



A Fact Finding Report on
Experiences of Children living in Bastis of Bhopal

2015

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Background

A Fact Finding Team comprising of Asha Mishra [Activist, Bharat Gyan Vigyan Samiti and earlier state representative of NCPCR, Bhopal], Dr. Bharti Sharma [former Chairperson, Child Welfare Committee, Delhi], Kalpana Mehta [Feminist and Health Activist, Indore], Khushboo Jain [Social Researcher, Delhi], Maharukh Adenwalla [Advocate, Mumbai] and Prashant Dubey [Social Worker and Representative of Child Rights Alliance, Bhopal] visited settlements in Bhopal on 23rd, 24th and 25th July 2015 to enquire into the harassment of children at the hands of the police.

An enquiry into police atrocity was found necessary due to reports by the local press and activists regarding such incidents. One such incident widely reported by the local press in 2008 related to the suicide of a sixteen year old Pardhi girl due to constant police harassment. Evidence of two children being brutally beaten in a police station in Katni, M.P.¹ highlighted the apathy of the Madhya Pradesh Police as recent as three months ago (in March 2015). Many incidents, it was reported, do not get adequate attention due to lack of acceptable evidence.

The Fact Finding Team was invited by Muskaan, a non-governmental organisation working with children and M.P. Mahila Manch, an autonomous women's group responding to issues of human rights violations, particularly against women, to enquire into the police atrocities and harassment meted out to children belonging to marginalized communities living in bastis in different parts of Bhopal. The Fact Finding Team has expanded the scope of enquiry as the children's families and other adults residing in the basti also faced police atrocities and other inhumane treatment on a regular basis. A child cannot be studied devoid of his / her settings or context.

¹ For more information, see video on <http://www.Timesnow.Tv/videoshow/4476443.Cms> and <http://www.Humanrights.Asia/news/urgent-appeals/ahrc-uac-069-2015/?Searchterm>

The Fact Finding Team visited seven settlements, namely Aman Colony, Banjari Basti, Ehsaan Nagar, Gandhi Nagar, Ganga Nagar, M.P. Nagar and Rajeev Nagar, and spoke to the children, women and men staying there. The Fact Finding Team also spoke with the concerned authorities, such as the police and the functionaries of the juvenile justice system.

At this stage, it is important to state that the residents, including the children, could not provide definite dates and ages, hence, those mentioned in the Fact Finding Report are not precise, but approximate. However the incidents that were narrated were embedded into the deponents' minds so there was no ambiguity regarding the same.

To ensure that there is no retaliation at the hands of the police and local administration upon those who spoke to the Fact Finding Team, their names have not been mentioned in the Report. The Fact Finding Team apprehends that the particulars and circumstances that have been mentioned in the Fact Finding Report may result in identification of the deponents, but it is hoped that the report creates support from the people of Bhopal in favour of the basti-dwellers, who are harassed at the hands of the police and the system.

Summary of Findings & Recommendations

A Fact Finding Team comprising of six child rights activists, lawyers and retired child welfare committee officials came together to explore issues of treatment of children by the police, in end of July 2015. The team visited seven bastis, three police stations and district and state level institutions concerned with child rights, juvenile justice and child welfare and in all has interacted with more than a hundred individuals in this process. Newspaper reports and other documents such as report of the State Human Rights Commission were also studied.

Main Findings

Experience with the Police

1. Harassment, violence and extortion are almost the universal experience of the basti dwellers starting from children 6-7 years old to adult men and women.
2. Police raids these bastis at all odd hours, picks up children as well as adults and without registering criminal cases, in most instances keeps them in lock up subjecting them to torture and intimidation till their families can secure their release by paying bribes that may range from a few thousand to more than a lakh of rupees.
3. These are clear violations of the fundamental rights of people guaranteed by the Constitution such as Article 21, 22(2), the procedural laws, as well as violation of Supreme Court defined guidelines in the case of D.K.Basu vs State of West Bengal.
4. Police atrocities on children range from electric shocks, beatings, pricking with pins, rolling pebbles in ears to hanging upside down. Police has used torture so extensively that slaps by policemen are not even counted as violence by children.
5. Though not wide-spread, but incidents of sexual abuse in the police station was reported by boys. Threats of sexual abuse and verbal abuses of sexual nature were commonly reported from girls and boys.

6. While in the lock up children are forced to do menial tasks like cleaning the bathroom, washing vehicles mopping the floors with a false promise that if they serve they will be released.
7. When extortion is not successful torture continues till the child confesses to crimes and then several cases are foisted on them.
8. While the police is quick to apprehend them, the complaints of basti dwellers are never attended to.

Denying Children the Protection of the Juvenile Justice System

1. There is ample evidence that the juveniles picked up by the police are made to face violence and intimidation for days together and are not produced before the Juvenile Justice Board within the mandated 24 hours of their being apprehended.
2. In most cases the children are just kept in the thana till the parents have parted with sufficient money.
3. Though each Thana has a designated Child Welfare Officer, that functionary works in tandem with the perpetrators of violence.
4. While evidence of violence in custody is shown in medical examination the JJB also does not pursue that matter for lack of complaints.
5. Many children charged with offences are brought before a Magistrate and housed in jails even when there is official proof of age, or obvious by appearance.
6. Parents are not informed that the police has picked up their child though this is strictly the responsibility of the police.

Misuse of the Juvenile Justice System and its Impact

1. Many children are picked up as they try and somehow enhance family income by rag picking or begging and are then put in the care of the state or just in lock up and the parents have to struggle hard to get them back. State agencies are blind to love that exists in poor and deprived families and can easily dub the parents unfit by their middle class biases.
2. The fear of being picked up looms large in children's minds as also among their parents. Children try to run away at the sight of the police as much from their own experience as from the collective experience of the community. The police behaviour is then worse as more guilt is presumed when children try to escape.
3. Children have been picked up and produced before Child Welfare Committees only because they have gone rag picking and have spent

days in a children's home before being reunited with their families. An extreme example was three years in a home before accidental discovery by a neighbour.

Complicity of the Special Juvenile Police Unit

Special Juvenile Police Unit, a creation of the Juvenile Justice [Care and Protection of Children] Act 2000, to handle children's cases in the correct perspective, has been constituted in Bhopal. It is manned by the police and a non-governmental organisation to ensure that children are kept in a safe environment till their production before the Juvenile Justice Board. However it is found that being within the police system, they are often coopted into the system and forget their role in child protection to the extent of allowing beating to go on in their presence.

Stigma against the De-Notified Tribes and the Pardhi community

1. The branding of Pardhis as "criminals" continues in post-independent India, despite repeal of the Criminal Tribes Act 1871 in 1952.
2. As a result, the Pardhis have not been able to enter the organized sector and are confined to doing petty business or undertake occupations like waste-picking.
3. Pardhis are viewed with suspicion and harassed by the police and in middle class neighbourhoods and face violence all the time.
4. State agencies approached in these matters have also not taken any stringent action despite clear evidence of atrocities and police excesses and this has further emboldened the police.

Environ of Criminalisation

1. The state, by its deliberate design, is guilty of perpetuating the criminalization of those belonging to certain communities such as Pardhis.
2. Their work largely comprising of rag picking is also treated as a cover for them to be engaging in petty thefts.
3. Police extortion is evident as only a few cases are filed and most of the Pardhis are let off after they have paid sufficient bribe. Bribery that keeps them in perpetual debt. Usurers also profit when desperate relatives try to arrange funds in a hurry.
4. There is no effort at mainstreaming the community. In turn the frustrations of the community are high leading to alcoholism and that in turn increases their vulnerability.

Neglect by State : Inadequate Infrastructure and Absence of Amenities

1. The condition of the bastis is very poor and the state seems to have abdicated all responsibility towards providing the basic amenities to these bastis. People do not get water, no paved streets, no latrines and only a few have been provided with electricity connections making others into thieves drawing electricity directly from the overhead wires.
2. Health care facilities were found in only one basti. Schooling is fraught with danger of being picked up by the police even where facilities exist.
3. Despite being given pattas, people have no security of legal tenure and are constantly facing the threat of eviction due to real estate mafia eyeing their settlement or due to change in government plans.

State's failure towards children and marginalized communities

It is not what they do but what they are [denotified or nomadic tribes, poverty, homelessness, etc.] that results in their victimization. This is definitely not a healthy environment for a child. State is solely responsible for creating this condition.

The state machinery instead of alleviating the situation, is enhancing the same by its participation or inaction. Absence of stringent measures against the perpetrators, emboldens civil society to continue with its blame game and occasional indulgence in violence.

Recommendations

- (a) The relevant authorities should take stringent measures to ensure that (i) the children of Pardhis and other de-notified communities are treated with dignity; (ii) no child alleged to have committed an offence is subjected to any form of violence; (iii) those belonging to marginalized communities or their children are not falsely implicated in criminal cases that are reported in the city; (iv) financial extortion from the community is not carried out by the police; (v) in case there is reasonable suspicion of commission of an offence, the legal course should be followed whoever be the alleged offender.
- (b) Stringent action should be taken against errant police personnel which alone could result in ceasing police atrocities. The police personnel in majority of the incidents reported to the team are identifiable and are repeated offenders of children's rights.

- (c) First Information Reports should forthwith be registered against police personnel when a complaint is made regarding violence / torture and/or illegal detention and/or extortion within or without the police station.
- (d) Departmental inquiry should be initiated against police personnel when a complaint is made regarding violence / torture and/or illegal detention and/or extortion within or without the police station. Pending departmental inquiry, such police personnel should be suspended from service.
- (e) An investigation under a senior police officer should be initiated into the incident of 14th April 2015 regarding beating of two boys at the Special Juvenile Police Unit by police attached to Crime Branch.
- (f) Government of Madhya Pradesh should pay compensation to victims of violence / torture and/or illegal detention and/or extortion at the hands of police personnel.
- (g) The State Human Rights Commission should make or facilitate regular surprise visits to police stations to check whether any adult or child is illegally detained.
- (h) A Circular should be issued from the state level to all police stations that police personnel should stop harassing and humiliating waste-pickers and those belonging to the Pardhi and other marginalized communities or face departmental inquiry.
- (i) Police should send a strong message to civil society that stringent action will be taken against those who beat or restrain or deny access to public facilities / amenities to a rag-picker or person belonging to the Pardhi or other marginalized community.
- (j) The Juvenile Justice [Care and Protection of Children] Act 2000, as amended in 2006, should be complied with in its true spirit for the benefit of children.
- (k) Juvenile Justice Board / Child Welfare Committee should create an environment so that children feel free to report any mistreatment and violence. JJB or CWC should initiate suo-moto investigation on receiving information regarding police atrocities, with follow-up.
- (l) The police should not 'rescue' children belonging to a marginalized community and separate them from their family with the presumption that they are in need of care and protection. District Child Protection Officer should link the child's family with social welfare schemes to assure the child a life with dignity.

- (m) District Child Protection Unit should also take cognizance of these matters. The Collector, being the Chairperson of DCPU, should give priority to this and ensure timely action.
- (n) A full-time District Child Protection Officer [DCPO] should be appointed so that he / she can concentrate on child protection issues. DCPO should not hold any additional charge.
- (o) The State Department of Women and Child Development with the assistance of academics, non-governmental organisation and others working in the field of children should stipulate the mandate, focus, role and responsibilities of the Juvenile or Child Welfare Officer.
- (p) Measures should be taken by the relevant ministries to change the attitude of the police, Juvenile Justice Boards, Child Welfare Committees and civil society towards Pardhis and other de-notified communities.
- (q) Transparency and sharing of data regarding juveniles in conflict with law, including that pertaining to their arrest, registration of First Information Report, juvenile cases pending / disposed by JJB, is essential. It is important that this information be consolidated and shared with those seeking it and with appropriate senior police functionaries (CID in-charge of Juvenile Justice) and reviewed for timing corrective action.
- (r) The functioning of the police needs to undergo drastic changes, especially in reference to vulnerable communities. Curriculum of Madhya Pradesh Police Training Academy should contain a module on human rights, democratic rights, civil liberties and socio-economic biases that lead to discrimination against minority and vulnerable communities. The Juvenile Justice [Care and Protection of Children] Act 2000 and its principles, and child psychology and child development should form part of the training curriculum of police officers.
- (s) Create awareness amongst state functionaries and civil society that waste-picking is not a criminal activity, but is carried out for purpose of survival.
- (t) Government of Madhya Pradesh and other state agencies should provide basic amenities [piped water supply, electricity connections, sanitation and drainage] and facilities [health-care, schools] to the residents of bastis and assure them security of legal tenure.
- (u) State agencies should ensure that all, including those belonging to Pardhi / other marginalized communities, enjoy their Constitutional, procedural and other rights, as also those rights granted under the human rights framework at the international platform.

Visits to Settlements

The Fact Finding Team divided itself in two groups and visited various settlements and spoke more than a hundred children and young women. Since all the narrations could not be described in detail in this report, the Team has selected a few narrations from each settlement based on the distinctiveness of the experiences, gender, age, particularities in individual cases, etc.

Aman Colony

Background

The Fact Finding Team visited Aman Colony and Aawas Vikas, which are adjacent to one another and fall within the jurisdiction of Nishatpura police station.

The road to Aman Colony is a “*kuccha*” road. The Fact Finding Team visited Aman Colony after a few days of heavy downpour because of which the road was filled with slush. There are about 55 houses in Aman Colony. Many of the residents belong to the Irani community. The residents shifted here 5 years ago from Bhanpur. They had been living in Bhanpur since 25 years. Bhanpur is between the rail tracks and the main road; the residents often met with accidents. This was given as the reason by the people for selling their homes at Bhanpur, and relocating at the present site. They built their homes at the present location as it was open land near a masjid.

They had been issued Ration Cards at Bhanpur. Their names were included in the Electoral Roll, and were issued Voters Identity Cards. They also had Aadhaar cards. There is no water connection in Aman Colony; the residents get their water supply through tankers; they pay Rs. 300/- per water tanker. Most of the houses have electricity meters and toilets.

The residents earn their livelihood through petty business, such as selling spectacles and semi-precious stones, and some deal in property. There is a state-run school upto XIIth standard and 3 to 4 private schools in the vicinity. Bhopal Memorial Hospital is nearby.

The residents complained that police personnel regularly come to Aman

Colony around midnight in a drunken state and ask for money. Ten to fifteen police come together in police personnel vans, 2-star [police sub-inspector] and 1-star [assistant police sub-inspector]. The police personnel for no reason abuse and beat the residents, including women and children, and often pick them up. No cases are registered against those picked-up; the police take money from them, and then release them. The police threaten that if they complain false “drug” cases will be foisted on them. This practice had stopped during the Ramzan month, but has now restarted.

Earlier there were one or two anti-social elements in the area, like everywhere else, but the police targeted everybody. The residents have since chased the anti-social elements from the area, but the police continue with their harassment. Because of this, families send their older children to work elsewhere.

Due to conflict with others, the homes of those belonging to the Irani community, were set fire to on 11th December 2014. The police took no action to stop the arson. They have not received any compensation from the government for the loss suffered.

Residents informed the Fact Finding Team that about 20 days ago, the police picked up a 60 year old man and took him to the police station, and told him that they would release him when his children come to the police station; he was released only after Rs. 4,000/- was paid to the police.

Narratives

A, 17 years of age, informed that about a year ago police attached to M.P. Nagar police station [Crime Branch] came and picked him up. He was kept at the police station for 3 to 4 days where he was beaten, hung upside down, pricked with pins on finger tips and forced to confess to thieving. **A** was shifted to the police lock-up where he was kept for another 10 days. Police attached to different police stations, namely, Ayodhya police station, Habibganj police station and Piplani police station, were given his custody one after the other. So that torture at the hands of the police would stop, **A** “admitted” to having committed the offences. He was then produced before the Magistrate. Medical examination which **A** underwent at the instance of the Magistrate revealed injury marks. The police also took his signature on blank papers. **A** was thereafter kept in Bhopal Central Jail.

Though he was 16 years old, the police showed him as 20 years of age. **A** had a Birth Certificate and school records to show that he was a juvenile. He remained in Bhopal Central Jail for 16 days after which he was transferred to the Observation Home where he remained for another 40 days. The police foisted 14 false cases on him under section 392 IPC for chain snatching. **A**’s family engaged a lawyer who obtained bail for him; his family had to pay the lawyer and the sureties. His cases are pending before the Juvenile Justice Board at Jehangirabad. He is required to attend before the Juvenile Justice Board 2 to 3

times a month. Jehangirabad is 20 kms. from Aman Nagar. The police attached to M.P. Nagar and Nishatpura police stations constantly come to **A**'s house in search of him. Due to such police harassment, **A** spends his nights at different homes in Aman Colony. **A** presently sells spectacles with his father.

B, 18 years of age, said that he was caught by 40 Crime Branch officials about 8 to 9 months ago from Sanjay Nagar Colony at 2.30 a.m., and was taken to M.P. Nagar Crime Branch where **B** was beaten and hung with hands tied to a pipe for the first two days, and forced to accept the commission of an offence. He was kept in M.P. Nagar police station for eight days, then two days in Ayodhya police station. An FIR under section 392 IPC was registered against him after which he was produced before Juvenile Justice Board and sent to Observation Home, where he remained for six days, after which he was released on bail. The juvenile case is still going on. A month ago, **B** was called by Nishatpura police station and kept there till 1.00 a.m. that night. Apparently some documentation was done and he is still repeatedly being called, he does not for what purpose.

C, 45 years, spoke with the Fact Finding Team. She was beaten up by the police late at night and was threatened with death at gun-point. About 10 to 15 drunk policemen came and created a ruckus. When women of the colony came out of their houses to ask what was happening, about 8 to 10 women were beaten up; a 70 year old woman was also beaten with police batons. The women went to Hamidia Hospital, but were denied treatment on the ground that the matter should first be reported to the police and the doctors said that they will only treat them in the presence of the police.

Banjari Basti

Background

Banjari Basti [also referred as New Ambedkar Nagar] came up more than 20 years back, as a relocation site for a central city slum, but gradually this has also become part of an upcoming locality. The basti's boundaries expanded and the more recent settlements contain a mixed population of Pardhis, Gonds and other groups. There is an on going dispute with respect to the land on which Banjari Basti is situated. The land belongs to the State Government, but Developers are trying to usurp the same. Thus, the basti was burnt down every year for two years consecutively; then a demolition squad came without any eviction notice. The basti-dwellers have managed to get a stay order from the court.

Banjari Basti is not provided with any facilities. There is neither piped water supply to the area nor any metered electricity - the residents get water through tankers. The water tankers can only go up to the motorable part of the basti. Families at that level have constructed tanks to store the water. Those families living above this level buy water from the residents at the rate of Rs. 5/- per can. To earn a living, the women go waste-picking, and the men occasionally go to buy scrap on a thela. For health services, people have to travel long distances.

There are about 100 children of school-going age, i.e. between 6 to 14 years, but only 12 to 15 children go to school; the rest of them are working. The closest state-run school is at a distance of 3 kms. at Akbarpur. In the vicinity, there are 8 to 10 private schools, but children from Banjari Basti are not given admission. An aanganwadi is running in Banjari Basti – the Fact Finding Team observed children carrying home the food that they had been given at the aanganwadi.

It is a general practice for the police to pick-up the people and demand money, between Rs. 3,000/- to Rs. 10,000/-. The people pay the money as soon as they are able to gather the same – their family's survival depends on their daily waste-picking, which they are not in a position to do when in the police lock up. People take loans, even on high interest, to get their kin released.

False cases are foisted on children as small as 8 to 9 years, or even younger, on the pretext that children get into houses through windows and steal utensils. Police picks up 5 to 6 children together and keep them in the police station for a day or more. If they are picked-up in the morning, they are never released before late evening. The police demand a fine or petty money for their own needs (*jurmana* or *chai pani*) from the parents and take Rs. 1,000/- to Rs. 2,000/- for each child.

Narratives

D is 16 years old. His father is no more. They are four brothers and four sisters is mother begs at New Market temple. **D's** marriage had been solemnised when he was very young and *gona* is yet to take place; his wife resides in Mundikhedi village. **D** does *kabaadi* work [scrap collection]. On Sundays and Thursdays he goes from house to house buying newspapers, utensils, etc. The scrap-dealer gives him a hand cart, weighing apparatus and Rs. 1,000/- to buy scrap. He earns Rs. 150/- to Rs. 200/- on the days he works. Around Diwali time, he does this full-time for two months and makes some extra money. He earlier lived in Rajeev Nagar for 5 to 6 years, but moved to Banjari Basti six months ago because of excessive harassment by police in the earlier locality. Before Rajeev Nagar, he used to live at Mundikhedi village. At Rajeev Nagar, **D** used to go on the street for waste-picking. He would often be picked up by the police when he went waste-picking. About 3 years ago, when in Rajeev Nagar, he was picked-up by the police, and taken to T.T. Nagar police station where he was kept for 2 to 3 days. He was beaten by the police; also slapped, neck throttled and ears pulled.

D narrated an incident when the police entered his house and picked him up claiming that he had thieved from a house in Mata Mandir. The police later took him home to tell his mother to come to the police station the next day, which she did. His mother got him released on payment of Rs. 7,000/-.

D was again picked up about 2 to 3 months ago. The police asked where he was going, and despite being told that **D** was returning from Mundikhedi village

and had just gotten off the bus at the City Bus Depot, he was forced into a police jeep and taken to Lal Ghati Chowki; sometime later he was let-off. **D** said that the police question the Pardhis, “Where are you coming from...where are you going?” Pardhis are unable to perform their daily chores. Even when they go to buy vegetables from the weekly market, policemen accost them asking their names and when identified as a Pardhi, they are taken to the police station. He adds that Pardhis are scared of police; due to the beatings and torture, they agree to the commission of crimes in which they are not involved.

E is 16 years old and collects scrap. Fifteen days ago when he was on his way to buy samosas, he was picked up by the police, and asked from where he had gotten the money. Despite being informed that the money was from home, the police took **E** to the Kolar police station and detained him for 24 hours. He was released when his parents paid the police Rs. 2,000/-.

F, aged 40 years, narrated the time where his daughters could not be traced for three years. A few years ago, his wife had gone off to her parent’s place leaving their children behind. They had two daughters who were 8 and 3 ½ years old. The girls, one day, decided to follow their mother. The father not knowing where his daughters were, lodged a missing complaint with the police, but no efforts were made to locate them, so he went in search of his daughters to places as far as Pune – he went to every orphanage or Children’s Home that he heard about, but all in vain. He had also borrowed money to travel. Sometime later, in the same basti another child went missing and was located in a government run shelter home in Bhopal. When **F**’s neighbour went to get his child, he saw that **F**’s daughters were with the same organization. Three years after they had gone missing, the girls were restored to the family.

G, a driver by profession, said that a criminal case was ongoing against him for possession of a knife, and that the same was fabricated.

Ehsaan Nagar

Background

Ehsaan Nagar, officially called Sanjay Nagar, was established about 12 year ago by 20 families who shifted there from Bairagarh at the outskirts of Bhopal. They were residing at Bairagarh for 30 years. Sindhi families wanted to shift to Bairagarh as people belonging to their community lived there. Each of the 20 families were allotted a plot on a 29 year lease and Rs. 6,000/- in exchange for their homes. The Fact Finding Team was informed that the residents fear evictions on completion of 29 years. The residents also informed that the Bairagarh property where Ehsaan Nagar stands is more valuable than Karond. Ehsaan Bhai had helped them settle here, hence the name, Ehsaan Nagar.

Ehsaan Nagar is near the cantonment area. There are 5 lanes in Ehsaan Nagar inhabited by Pardhis. Ehsaan Nagar used to have water problem as they have

no pipelines and the two bore wells were dry. They would purchase water from nearby residents – Re.1/- per bucket. Recently the bore wells have started giving water as the underground water level has risen. There are no toilets and the residents relieve themselves in the open. Women complained of harassment by the passersby who say nasty things to them when they go out to relieve themselves. There is a state-run school in Karond, but more than 50% of the children go to private schools.

Jati Pehchaan Patra [caste certificates] are not issued² so they are unable to get admission to colleges or obtain jobs. Most children drop out of school as they do not get jobs; hence, they believe that studying is useless.

Women and children go waste-picking and earn between Rs.100/- to Rs.150/- a day. Men do household work, but keep a control over the women and children's earnings.

Ehsaan Nagar has now become difficult to reach due to the recent construction of walls along two sides of its boundaries; There is only one street for entering and exiting the locality and so it is quite some distance to access the main road.

Residents of Ehsaan Nagar are also terrorized by the police as are the residents of Aman Nagar. Such harassment has caused panic among the people and they have started viewing each other with suspicion. They believe that there are police informers in their midst. Women complained that it is a common practice for the police to break open the doors to their homes at night when they may be undressed and sleeping "as a man and wife do".

The residents narrated that about a year ago, forty people were picked up by police at 2 a.m., when two police vans filled with policemen, including a Police Inspector, came to the site. Those picked up were all beaten and released next day after Rs. 1,000/- was paid for each of them.

The residents said that have not received any kind of help from any elected leader of the area.

Narratives

H, a 12 year old girl spoke to the Fact Finding Team. She lives with her parents, two brothers and one sister. Her brothers go to school whereas **H** goes scrap-picking, as does her mother. **H** too wants to go to school. About one or two months ago, four children, including **H**, were picked up from Karond Chauraha by police, and were taken in a van filled with policemen to Karond police station. Nishatpura police station is also called Karond police station. The children were then taken before the Child Welfare Committee, and placed in a home for two days. This was done as part of an anti-begging drive.

² Pardhis of districts Bhopal, Raisen and Sehore districts were removed from the Scheduled Tribes list vide SC & ST Orders (Amendment) Act, 2002 aka No. 10 of 2003

I is a 14 year old who is studying in the IXth standard in a private school. He resides in Ehsaan Nagar with his parents, a sister and three brothers. **I** is the youngest of his siblings. Six months ago, **I** and his friend had gone to the bazaar to buy a t-shirt. At 2.00 p.m., they reached the shop and purchased the t-shirt. Before returning home, while they were eating at Karond Chauraha, two policemen came on a motorbike and asked them what they were doing. When informed that they had gone to buy a t-shirt, the police retorted, "You are thieves" (*tum log chor ho*). **I** told the police that the t-shirt had been bought and was not stolen. The police asked **I** to take him to the shop from where the t-shirt had been purchased, which **I** did, and the shop-keeper too confirmed the purchase of the t-shirt. Police then slapped **I** and his friend, threatening that they should not be seen in the jurisdiction of Nishatpura police station again.

J, a 16 year old, makes aluminum frames for mirrors and windows. **J**, along with his 19 year old brother, was picked up from their home where they were sleeping. They informed that about a year ago at 4.00 a.m., thirty-five residents of Ehsaan Nagar including children, were picked up and taken to Nishatpura police station, where they were beaten with pipes. The police stated that they had been picked-up for committing "*chori*". The police released them the following evening at 6.00 p.m. when they were paid Rs. 1,000/- to Rs. 2,000/- per person.

K spoke to the Fact Finding Team about her daughter, **L**, who is 14 to 15 years. **L** along with two other girls, around 11 a.m., were on their way to collect twigs for lighting the *chullah*. The police took them to Parwalya police station where they were kept for 3 to 4 days. **L**'s parents did not know where she was so they went in search of her to different police stations, and finally found her there. The police demanded Rs. 50,000/- and claimed that she was involved in stealing the "*colonel saab's*" tap about a month ago. As the family was unable to pay the money, **L** was not released. She was produced before the Juvenile Justice Board and placed in the Observation Home at Vidisha, without informing her parents. Vidisha is about 60 kms. from Bhopal. Eighteen days later an officer from the Observation Home contacted **K** and informed her about the whereabouts of **L**. **K** engaged a lawyer who obtained bail. **L**'s case is pending before the Juvenile Justice Board. The Fact Finding Team was unable to meet **L** as she had gone to the Juvenile Justice Board for her hearing.

M, a 17 year old, narrated an incident of 2 years ago. He was then studying in school. He was riding pillion on a motorbike with a friend; they were going to buy rations (*kirana ka samaan*) to sell at the friend's shop. Two policemen on a motorbike stopped them at 1.00 p.m. As it was Diwali time, **M** had, on his person, a toy gun for bursting fire crackers. The police took **M** and the motorbike to Nishatpura police station where he was beaten. At 9.00 p.m., he was released on his mother paying the police Rs. 5,000/-.

N, 18 years, went waste-picking about a month ago with **O** to Lama Kheda.

They were both picked-up by the police at 9.00 a.m. and brought to Nishatpura police station where they were abused and beaten with batons. The police threatened, "You don't have a record as yet. Now that you have been caught, we get you hanged. (*Tumhara record nahi hai. Aaj pakdaye ho. Ab tumhe fansi lagayenge*). Meanwhile, N's grandfather died; she pleaded to be released. They were ultimately released by the police at 5.00 p.m. on payment of Rs.2000/-. Ten to fifteen days after the incident, two policemen came to N's house and on threats of a beating extorted more money from the family.

P, 22 years of age, said that he had owned 18 acres ancestral land in Mundikhedi village which is 97 kms. from Bhopal. About 5 years ago, he sold 2 acres of the land and purchased a plot at Ehsaan Nagar where his in-laws resided, and a motorbike. After this, police from Nishatpura police station would keep picking him up and demanding large sums of money from him; amounts as large as Rs. 20,000/-, Rs. 40,000/- and Rs. 80,000/- have been taken from him at different times for his release. **P** told the police to register a case against him and produce him before the court, but they never did so. The police would beat him up and fearful of the beating, he paid the money demanded.

About twenty days ago the police came to his house around 3.00 a.m. and banged on the door. **P**'s wife, **Q**, described that she was not clothed, and pleaded with the police to give time to open the door, but they kept banging on it, and the young couple and their children started crying aloud. **P** thought of hanging himself. His mother-in-law, hearing the ruckus, came to their door and told him to open the door and not get scared. They then opened the door. The police destroyed their furniture and flooring supposedly in search of stolen articles. Nothing was found so they seized two mobiles and three watches, and took **P** and his wife to the police station. **Q** was still not properly clothed, hence, her mother ran to the police vehicle to give her a sari and their 2 year old son.

At the thana, police women conducted a bodily search of **Q**. The police told **P** that they had found a gold chain during their house-search and they would use this against him, but **Q** told the Fact Finding Team that the chain was produced by the police themselves (and was finally not even documented as recovered). The police also seized their personal mobile. The police sought Rs. 1,50,000/- from them. **Q**'s mother-in-law tried to negotiate the amount and pleaded for their release. **Q** was ultimately released the following night at 10.00 p.m. on the promise that she'll return in the morning. The two women then approached the Sessions Court stating that police had **P** in their custody and were trying to extort money. Initially the police denied the same, but at the insistence of the judge, produced him before the court at 3.00 p.m. after having foisted a false case under section 25 of the Arms Act. The Sessions Court immediately released **P** on bail. **P** and **Q** were very upset about the loss of their mobile as it had photographs of their child since his birth and other memorable moments.

R, 35 years old, and her husband were picked up from their home by the police and were accused of having committed 3 to 4 offences. They spent three days

in the police station where they were badly beaten up. They then spent two days in the Bhopal Central Jail, after which they were released on bail for which they spent Rs.20,000/-. Since their son's marriage was to be held three days later, they wanted to get out of the jail at the earliest. Police abused them and their community – "You Pardhis are involved in thieving." (*Tum Pardhi log chori karte ho*).

S's husband was picked-up on false accusation of theft. She sold their land to get him released on payment of Rs.30,000/-. Her husband was kept in the police station for four days.

Gandhi Nagar

Background

Gandhi Nagar is a big settlement on the periphery of the city, near the airport. Investments through slum development programs have brought some infrastructure into the basti, but maintenance of these and the social indicators remain compromised. There is a Community Health Centre in the basti, but at night no medical cases, including childbirth, are handled there.

The Fact Finding Team interacted with the Pardhi and the Gond communities in this basti. In these pockets of this basti, there is one private school, but in the adjoining basti there are about ten private schools. The residents said that they would prefer to send their children to state-run schools, but as the school is across the highway they do not send their children there. Moreover, there are big ditches around the state-run school that are full of water. These situations could cause accidents and hence parents are scared for the safety of their children. Only some of the children (from these communities) go to school. Most of them are waste-pickers. Approximately around two out of five children go to school.

People are always under constant fear of being picked up by the police. Every single family in Gandhi Nagar has had contact with the police and has paid money to the police to stop harassment. Due to this, at least 90% of the families are in debt. Children endlessly face physical violence at the hands of the police. The residents feel that the system treats their whole community as an enemy.

One of the residents, *T*, shared another woe of the community, that of the *jati panchayat*. *T* said that people are much harassed by the *jati panchayat*. According to his observations and experiences of the functioning of the *jati panchayat*, anyone can get away with committing any crime, including sexual assault on women and girls, by bribing the panchayat. The panchayat holds its sittings, passes a verdict at its will, entailing payment of cash and enforces arbitrary punishment. Failure to abide by the verdict of *jati panchayat* incurs expulsion from the Pardhi community. The appointment of the Head of the *jati panchayat* is a hereditary matter - a male of a particular family heads it.

Narratives

U and **V**, aged 14 years, spoke with the Fact Finding Team. Both these girls are friends and spend most of their time together. They also go rag-picking together. **U**'s father is dead and her mother suffers from a severe mental disorder. **U** has three younger siblings. She, though, a child is the de facto head who single handedly manages the family. **V** lives with her family. Both **U** and **V** do not go to school.

Both the girls shared a common experience of harassment when rag-picking at Lal Ghati. One day while they were rag-picking, they heard a commotion and to their surprise, 5 to 6 persons ran towards them shouting "Catch these girls, they are thieves and have stolen." The mob shouted, "Hold them and we will hang them. They are thieves." The girls got frightened and pleaded that they had not stolen, and that checking of their gunny bags would reveal that they had not stolen, and that they were merely rag-picking. Their gunny bags were turned inside out, and nothing was found!! But still the girls were held responsible for stealing 18 fans. The girls stated before the Fact Finding Team that it is impossible to fit 18 fans in two gunny sacks, but they were taken into a house and asked their names. They stated their names as "**U** Pardhi" and "**V** Nat (Gujarati)". Hearing their names, **V** was allowed to go. **V** informed **U**'s mother about what had happened, but because she was ailing, it did not make any sense to her.

Male residents of that colony mercilessly beat **U**, and locked her in a room. She was given tea, but nothing to eat. It was in the evening that the police came to the spot. The policeman and policewoman also beat her. The policewoman said, "You people steal. What do you get by stealing?" **U** told the police that she had not stolen anything but she was not believed. Then **U** was taken to the police station where again she was beaten. During their questioning **U** deliberately gave the police her "mami", maternal aunt's name, hoping that they would bring her to the police station, which they did. In the evening both **U** and her aunt were let off after recording their particulars. The next day **U** and **V** were again called to the police station with their mothers, they were warned and let off.

W, 20 years and **X**, 16 years are friends and work together - they sell herbal medicines [*jadi-buti*]. They get these *jadi-buti* from jungles around Bhopal and sell them in nearby districts. A few days ago they were going to Sujalpur for work, as they were in a hurry they got into a compartment for the disabled from Bairagarh station. Besides them there were roughly 20 others who had gotten in. The police let the others go, but took **W** and **X** to Ujjain where they were put in a lock-up. Police demanded money, which they did not give, therefore, they were beaten up. They were released from the police thana very late at night.

W and **X** narrated another incident that had occurred a year ago. They along with their friends had gone to Pachmarhi for the Lord's darshan. From there they were picked up by the police allegedly in a theft case. They were kept

in the police thana for two full days. The boys said that they were initially bewildered as to why the police acts in such manner, but since have been told by others that when the police are unable to find the perpetrator of an offence, or when an influential or wealthy person is the suspect, the police pick innocent persons to show that the case has been solved. The youngsters also felt that sometimes when there is less workload, cases are filed to show that the police are working.

Y, 14 years and **Z**, 9 years, narrated their experience of a few months ago. Both of them were on their way to Singarcholi temple to play on the swings. With them there was another boy who had been apprehended by the police earlier for theft that **Y** and **Z** were unaware of. As they were walking, the police came and yelled at them a sexually explicit abuse and asked them to stop. On seeing the police the boy who had accompanied **Y** and **Z** started running. Not knowing what was happening, they also followed suit. The other boy ran fast enough to escape the police, but **Y** and **Z** were caught and taken to the police station. Police beat them on their fingers with a rubber-stick, and at the same time questioned them about stealing – “So, you all steal; where do you steal from”. (*‘kya, chori karte hon, kaha se chori karte hon?’*) When they replied that they do not steal, foul language and abuses were hurled at them and they were continuously hit on the fingers with the same stick. To stop this incessant beating, **Y** and **Z**, accepted the allegation of stealing. That boy who had escaped the clutches of the police, informed the boys’ parents of what had happened. Their parents rushed to the police thana, and were directed to Koh-e-Fiza police station. One of their mothers, who was present at the time of the Fact Finding Team’s interaction with **Y** and **Z** narrated her conversation the police, “What kind of lawlessness is this? Can children not go to play on the swings without being harassed?” The police’s reply, “If your children were innocent, why did they run away upon seeing the police?” The children had run because the other boy with them had run, not because they had committed any offence. The mother further informed the Fact Finding Team that the police compiled a thick file and told her that these boys have stolen mobiles and several other articles of which they have proof. The children showed their mothers bruised fingers and the injuries suffered due to police hitting and informed their mothers that they confessed to those thefts suggested by the police just so as to save themselves from further beating. The mother claimed that she confronted the police about the treatment meted out the boys. The policemen were defiant and told the mother that they are going to search her house for stolen articles. She told the police to go ahead with the same. Suddenly two policemen came and asked the mother to arrange for Rs. 50,000/- if she wanted the two children to be released. She told the police that she is a waste-picker and does not have such big amounts. The police tried to intimidate her by saying that if she does not pay up, they will search her house. The mother told the police to please go ahead as a house search did not frighten her, they had nothing to hide, and that they have no police record. The police made inquiries with Gandhi Nagar police station to ascertain whether they had any police record. Despite the

Gandhi Nagar police station saying there was nothing against them, the police demanded money. She borrowed Rs. 3,000/- and returned to the police station the next morning. The police haggled with her regarding the money; when she said she could not make arrangements for any more, the police took the Rs. 3,000/-, but allowed them to leave only at 9.00 p.m. The children were photographed at the police station with their names held across their chests. The mother lamented, “When our children have done nothing wrong, why do these children and all of us have to go through this ordeal?”

AA, 11 years of age, narrated her own experience of a dreadful night of the winter of 2014. That cold night she was sleeping at home with her mother and younger brother (her father is no more). Around 3.00 a.m. there was loud banging at their door. When her mother opened the door, police were there. They asked the family to come to the police station as they had engaged in thieving. **AA**’s mother who had measles said that they were in no position to go to the thana. In spite of her ill-health, she was pulled out of the house. **AA** too was pushed into the police vehicle. The police did not even allow them to carry their woollens though it was very cold. **BB**, **AA**’s 2 year old brother, fractured his hand due to manhandling by the police. He was pushed when following his mother and sister into the police van, as a result of which he fell in a roadside septic tank and fractured his hand. **BB** was writhing in pain, but the police insisted his hand was not broken, and when his mother pleaded that it was and should be attended to, the police went to the extent of pulling it, which worsened **BB**’s agony. They were taken to Nishatpura police station, along with their mami, **CC**. In the thana, they were all beaten with Reliance pipes and were continuously and vociferously told that they had committed a theft in State Bank. When they denied having committed any such offence, they were beaten more severely. During the beating, the children were separated from their mother. They were kept in the police station for 9 days. While in the thana, the police got **BB**’s fractured hand plastered, but did not let them go home. The police demanded Rs. 70,000/-. Every night at 11.00 p.m. they were shifted to the Mahila Thana, and brought back to Nishatpura police station in the morning. During the day they were kept at Nishatpura thana and thrashed. Finally **AA**’s mother with the help of others borrowed Rs. 70,000/- and gave it to the police, it was only then that they were released. **AA** told the Fact Finding Team, “I used to go to school. After this episode my schooling came to a close. Earlier I went waste-picking only on Sundays, but now to pay up the interest on the money borrowed to pay off the police, I go waste-picking every day.”

Ganga Nagar

Background

This area is mostly inhabited by people from the Gond community. There are about 150 Gond households. They have been staying here for more than 30 years. Men do daily wage labour, they get work for only 8 to 10 days a month;

most women are homemakers. They were brought to this locale by a contractor for construction of government quarters from different villages where they had worked as agricultural labourers.

There are no public conveniences, therefore, people are compelled to relieve themselves on the streets because of which they face harassment.

There is a children's private hospital nearby which people access. For all ailments, people prefer to go to private clinics, but if the ailment is continued over days and the debt is increasing, they seek treatment in the public hospital. Many children were enrolled at the private school across the road but soon dropped-out. Parents complained that teachers would sleep in the class and or go on for shopping sprees. There was no learning in that school. There was a separate room for 'Economically Weaker Sections' students and they were kept in the same standard for three years. Now, many children go to a school run by a Non-Governmental Organization.

There is a public park nearby, but when children go there to play, policemen ask them to leave. Children are frisked by the police when they go to the market, and the police takes away whatever the children have with them. Whenever children are playing or are in the market, they are harassed for being from Ganga Nagar.

There is a middle class neighbourhood on the opposite side of the street. They have problems with the slums and complain about them to the authorities regularly. Whenever there is a theft in the neighbourhood, children from Ganga Nagar are roughed up and picked up by the police. Just a day before the Fact Finding Team visited Ganga Nagar, a child had been apprehended on charges of theft by the police. Five to six adolescent boys, aged 14 to 16 years, are targeted by the police and continuously harassed. A report dated 3rd September 2015 published in the Hindustan Times, Bhopal edition, states that two boys, aged 14 and 15, who are residents of Ganga Nagar were picked-up by Kamala Nagar police station supposedly for commission of theft and kept in illegal detention for 3 days and brutally tortured, including being subjected to electric shocks, before being produced before the Juvenile Justice Board. It also appears that other criminal cases have been foisted on the boys as they have "confessed" to the same.

Young adults also shared that if they stand in groups and chat at the *nukkad* (square), the police personnel ask them to go to their homes and not hang around. Anyone standing on the roadside is looked upon with suspicion.

Narratives

DD, 6 years old, studies in the municipal school. **DD** started crying as we tried to speak to him. The trauma of an incident with the police still looms large,

and he is fearful of being picked up and beaten again. He was walking down the street when two policemen called out; **DD** got scared and started running, following which the police chased him and picked him up around 5.00 p.m. They took him to the house where a theft had happened and beat him up badly. Then they brought him to his basti, Ganga Nagar on a motor-bike, and, went around asking **DD** to name people who were involved in the theft. **DD** was so scared that he named **EE** [10 to 11 years], **FF** [12 years] and **GG** [10-11 year]. All the boys were picked-up and taken to the police station along with **DD**. Police kicked **FF** on his chest, and gave electric shocks to everyone. They were kept in the police station for 4 to 5 hours and beaten up. When women from the community went to get them released, police chased them swinging their batons. When **DD**'s father went to the police station, he too was beaten up. The boys were then released and **DD**'s father was taken into custody. **DD**'s father was later released when his employer came and stood guarantee for his good behaviour. Women of the basti also went to the house where the theft had occurred and appealed to the owners that they were in no way concerned with the theft, but they were not listened to.

HH, who is about 12 to 13 years, had also been recently harassed by the police. His mother, **II**, spoke with the Fact Finding Team. Two months ago, **HH** while cutting tree branches was picked up by the police at 5.00 p.m. on the accusation of stealing the donation box from the temple. He was severely beaten up and had injury marks on his back. When members of the community went to the police station at 8.00 p.m., **HH** was sent to Childline and threatened by the police with dire consequences if he revealed that he was beaten. Scared, he did not utter a word to anyone. He was kept at Childline office that night, but police took his custody again in the morning. The SJPU register had an entry of him being admitted at 9.55 pm the previous day and being taken at 8.15 am the next day. He was taken to the basti, Ganga Nagar to identify people involved in the offence. Out of fear of reprisal, he took **JJ**'s name, but **JJ**'s mother refused to let go of him. **HH** was taken back to the police station, and was released that afternoon. **II** has since sent **HH** to his grandmother's home in Chhattisgarh where he runs a tea shop. A complaint was filed before the District Collector by the community, pursuant to which a meeting was held, but no further action has been taken.

KK, a 14 year old has been picked up four times during the past twelve months. Whenever he is playing in the park, he is picked up and taken to Kamla Nagar police station. He is beaten up and given electric shocks. He was kept in the police station for 3 days at one instance, and for 8 days the next time. While in the police station, he would to be woken at midnight and beaten. He was taken to different places where theft cases had been registered and forced to accept the crimes. He was repeatedly asked to disclose what he had done with the stolen articles and how many theft cases he was involved in. Policemen would get drunk and beat those in the police lock-up every night. Once he was picked up on charges of stealing gold and kept in the police station for 11

days. **KK** was beaten, given electric shocks, and his pubic hair and penis were pulled. His t-shirt was taken off, his head was shaved and banged against the wall. **KK** was made to sit on batteries and threatened with electric shocks. He was forced to touch portions of the battery where the current was flowing. On one such occasion, when at Kamla Nagar thana, a pipe was inserted into his anus. In all these instances, it has been only once that from the police station, he was produced before Juvenile Justice Board and sent to the Jehangirabad Observation Home. On other occasions, **KK**'s family had to pay money to the policemen each time to secure his release.

Another boy, **LL**, was similarly tortured. Each time **KK** was picked up, he was brought to Ganga Nagar, and taken around to name people involved in crime. Under pressure, **KK** had named **LL** and **MM**. Even now, when they move around the area, policemen stop them and ask them where they are from. The moment they say Ganga Nagar, they are picked up again.

NN, 16 years old, works as daily wage labourer. He has been picked up by the police thrice. The first time, he was made to kneel and beaten, and his fingers were crushed under police boots. **NN** was kept in the police station for a day and was released on payment of Rs. 700/-. A month later, he was picked up again early in the morning while plucking flowers for *Saawan Pooja*, and beaten in the police station. He was released at 1.30 p.m. after paying a sum of Rs. 500/-. Two and a half months later, he was picked up from outside Geetanjali Hospital where he was eating chowmein along with his friends. They were questioned by the police about selling *ganja*. The children complained that the police threaten them when they go to play in the ground which is in a middle class colony. While playing, if the ball goes into a house and the boys go to collect it, they are blamed of stealing and the police are called. **NN** is constantly scared because of police harassment. He has stopped going to school or to the ground because of fear of the police.

OO, 16 years of age, has been harassed by the police about 5 to 6 times. A few days ago, he and his friend were going for a movie when they were stopped by the police, slapped and frisked. Police snatched Rs. 200/- from their person and chased them. **OO** shared that even when they go looking for waork as cleaning gardens and cutting grass, the New Market police harasses them. When they are returning from their work with caterers, the police takes away the left-over food which they have been given to take home. **OO**'s mother gets him released whenever he is picked up.

M.P. Nagar

Background

M.P. Nagar is a commercial area of the city. Families residing in this area depend on waste-picking or working at scrap-dealers for survival. People either live under the shade of trees or the covered portion outside of closed shops.

Residents who spoke with the Fact Finding Team said that the shopkeepers have no issues with them living there.

There is no facility of public convenience; the residents are forced to relieve themselves in the park or near a water body close by.

The Fact Finding Team was informed that different kinds of children reside in M.P. Nagar, some children reside with families, some are runaways, some are orphans. Police atrocities and extortions are a regular occurrence here.

Narratives

PP, 11 years old, was picked-up by the police about a month ago from near Janta Quarters when he was returning after rag-picking; they were insisting that he had stolen four electricity meters. **PP** told the police that he had not done so, but he was taken to the police station, hung upside down and beaten.

QQ, 12 years of age, narrated to the Fact Finding Team an incident that had occurred about two to three months ago. Two policemen came home, and told **QQ** and his step-brother, “We will give you money, we will give you food, we will give you clothes”, so they eagerly went with the police. The boys were taken to Childline office. On asking how he knew it was Childline’s office, he said 1098 was written all around, and the white vehicle in which they were taken also had Childline and 1098 written on it. They were kept at the Childline office for two days, and then taken to an “ashram”. **QQ** and his step-brother were later brought back by their *mausis* with the help of an NGO. **QQ** informed that once earlier too he had been picked-up by the police. The police had recorded his particulars, and kept a photocopy of his Aadhaar Card on their file.

RR, 16 years of age, shared that he was walking near Sargam talkies with **SS**, when a friend’s brother offered him a ride in a new auto-rickshaw. It was when the police stopped them that **RR** for the first time came to know that it was a stolen auto-rickshaw. They were taken to the police station. **RR** and **SS** were interrogated and they told the police what had happened, but the police did not listen to them and put them in the lock-up. Their families were not informed of their whereabouts. When he did not return home for two days **RR**’s mother, filed a missing person’s complaint with M.P. Nagar police station. Later **SS** was released. **SS** told **RR**’s family what had happened. When **RR**’s mother went to the thana, she paid Rs. 2,000/- to the police for his release. The police filed a lighter charge against him and he was granted bail by the Sub-Divisional Magistrate, for which his mother spent another Rs. 500/-.

While in the lock-up **RR** was made to wash police vehicles, mop the police station floors, clean the thana in-charge’s office / the latrine / bathroom. He was told that they would let him go if he did all this, but he was not released. **RR** said that the police drink and gamble in the police station itself, and whoever loses, takes his anger out by beating those they could get their hands on. **RR** said that he had earlier been picked-up by the police attached to M.P. Nagar police

station, Karond police station, Bagh Sevniya police station. Once when he was playing carrom with a friend near his house, the police came and said that he had broken the glass of a Maruti car and committed a theft. Despite **RR** denying the same and saying that he had been at home, he was taken to M.P. Nagar police station. He said that the M.P Nagar police are 'dangerous' (*khatarnak*), especially two officers (whom he named) – they beat with belts, with lathis, with kicks and fist blows, after hanging those in their control upside down.

SS, 16 years old, resides with his sister on the streets. Their father died long back and their mother recently died due to tuberculosis. He narrated an incident of torture at the hands of the police that had occurred during the last monsoon. A theft had taken place at the temple near the Board Office square; many things including the donation box had been stolen. Plainclothes police came to the area where the children sleep that night and insisted that they had committed the robbery. **SS** says he was not involved in this and denied the same to the police. But he and another boy were taken to M.P. Nagar police station, where they were kept for 13 days. Other children had also been detained at the police station. **SS** informed the Fact Finding Team that "We were hit with a baton stuck between our legs"; "Gravel was put between the ears and rolled" and "Pliers were used to pull out our nails". (*Dono tango ke beech mein danda phansa kar mara*" and "*Dono kano ke beech mein gitti phansakar ragad diya*" and "*Plaas se nakhoon nikaal liya*"). The police also made the children sweep the police thana. The police kept telling them to confess, but the boys had not done anything, so had nothing to confess to. Some of them were released, while others were sent to Juvenile Justice Board only when a social worker, who had come to the police station for some other work, intervened.

Another time, **SS** shared he was picked-up by Habibganj police station for stealing a gas cylinder. For three to four days he was kept at the police station where he was beaten, made to eat salt, handcuffed and hit with a *danda*. **SS** queried, "What would a person living on the streets do with a gas cylinder?" At that time, another boy (without a family who lived on the streets with them) was also picked up and badly beaten in front of **SS**. **SS** believes that the boy died due to police torture as he was taken away by the police and has not returned nor been seen since that day.

SS said that he and his sister have been picked up by the police, five to six times, and have been released on payment of amounts between Rs. 100/- to Rs. 1,000/-. He said that he has also been kept at Jehangirabad police station, Tallaiya police station and Bagh Sevaniya police station.

TT, 15 years, said that he and his brother were taken to M.P. Nagar police station regarding the theft of a mobile phone. The police came around midnight along with a boy while they were sleeping. The police asked the boy as to who had committed the theft, and he pointed to **TT**. As **TT** was living with his brother, the police took both **TT** and his brother to the police station. Four other boys

were already there at the police station. At the police station, **TT** was given electric shocks, and was ruthlessly beaten with a baton. The parents of the other children came to get them released. Because the brothers were unable to pay money, they were made to clean the toilet and bathroom. They were then taken before the Magistrate, and shifted to the Observation Home. **TT**'s medical examination revealed injury marks, which (he believes and we could not cross-check) resulted in suspension of two policemen [whom **TT** named].

Rajeev Nagar

Background

Rajeev Nagar is referred to as '*Gandi Basti*' by everyone as it is mostly inhabited by people belonging to the Pardhi community and Scheduled Castes.

There is a state-run elementary school, upto VIIIth standard, where the children are enrolled. Some of the children study in the Nehru Nagar Government School (*tankiwali school*) which is a secondary school. Children who go to school from this community are very few and most of the children go waste-picking. Children from Rajeev Nagar are humiliated in school due to their Pardhi identity and because they come from Gandi Basti.

There is no toilet facility in Rajeev Nagar; the girls and women have to defecate in the open before the day breaks. At this time too, the police do not spare their '*danda*' to hit the bottoms of females of any age. Often the girls don't realize that someone has come behind them, and topple over.

Consumption of *gutka* is prevalent in most children, even those as young as 7 to 8 years of age. Children narrate that they consume *gutka* to contain their repulsion towards some filthy things they come across while rag-picking.

Every child spoken to had a sordid experience to share. The atrocities were ingrained into the psyche of the child. According to the children, there is not a single household that has not been visited by the police for extracting money by levelling false accusations against them, because of which they are in debt. The girls complained that when they go waste-picking, the police verbally abuse them and pass sexual remarks. According to them T.T. Nagar police station is the most notorious in this respect. The police take them to the thana and say, "Give me once, I will let you off free". For torture and violence, Crime Branch is infamous, but as they live in the vicinity of Kamala Nagar Thana, there are many negatives experiences they have to share about it as well. Tintibai, a 16 year old Pardhi girl residing in Rajeev Nagar committed suicide on 19th January 2008 due to police harassment.

Narratives

UU is 17 years old. She was born in Rajeev Nagar, and also married a resident of the same basti. **UU** goes waste-picking to P & T roundabout (located at a

distance of about 500 metres from her house) at 6.00 a.m. every day. She said that they go waste-picking early in the morning because if they go later, the cleaners (*safailwale*) of the Bhopal Municipal Corporation would have already cleared the garbage from the roads, including what they would have picked for sale to the *kabadiwala*. **UU** said that police are always at Rajeev Nagar early in the morning when women and children leave for rag-picking; often the police abuse and take them to the police station, they are beaten and released only when they give money. People borrow money to pay off the police.

UU narrated the incident of 20 year old **VV**. **VV** had an altercation with his sister-in-law in the village at night, therefore he left home and reached Bhopal, where his sister lives, at 1.00 a.m. As he was walking from the bus stop to his sister's house in Rajeev Nagar, he was detained by the Kamala Nagar police. The police demanded the sum of Rs. 5000/-, the family, unable to pay this amount, tried to get him released on payment of half the amount, but to no avail. On lapse of 3 days, the family went to court against **VV**'s illegal detention, seeking that he be produced. When forced to produce **VV**, the police showed him as arrested in a case of motorbike theft. Thus after being kept at the Kamala Nagar police for 4 days, he was produced in court and sent to jail. This incident had occurred around 5 days before the team's visit, and as **VV** was still in jail, the Fact Finding Team was not able to speak with him.

UU also spoke about her sister, **WW**, who is 7 years old. About two months back, the younger sibling was picked up by the police while she had gone waste-picking with three other children. While the teenage girl in this group of children had been caught by the police, the others managed to scatter away, **WW** and the other kids went back as they thought it was not safe to leave a young girl at the mercy of the police and 'got themselves caught'. **WW** was placed in a home, where she remained for 15 days.

XX, aged about 37 years, informed the Fact Finding Team that the police harass, beat them when they go waste-picking at 6.00 a.m. The police tell them that they should not go waste-picking so early and should leave home only at 7.00 a.m. She narrated an incident that had occurred about 20 days ago, where the police beat her with *dandas* and fists, and took her to Kamala Nagar police station. There she was asked to pay money, which she did, after which she was released. **XX** said that a similar occurrence had happened even about five months back.

YY is in her 30s. Her narration confirmed what **XX** had said. Police insist that they should go waste-picking only after 7.00 a.m. If they leave early, they are beaten up. If taken to Kamala Nagar, they have to bribe to the police for their release. **YY** said that her young boys were picked up very frequently so she thought it safer to send them to school.

ZZ is 32 years old. Her son **AAA**, 10 years of age, was beaten by police attached to Crime Branch at T.T. Nagar thana in the presence of the Special Juvenile Police Unit and Childline staff. After **ZZ** lost her husband, she stopped waste-picking.

One of her sons does it occasionally and they survive on what he brings in. When she had gone to her village, a neighbour called her and informed that **AAA**, and a neighbour's son, **BBB**, 8 years old had been picked-up by the police, when he was buying something from a shop inside the basti. **ZZ** rushed back to Bhopal. Mean while, after looking for the boys in the neighbourhood thana, Kamala Nagar thana, the neighbour had managed to trace the children in the SJPU located in the T.T. Nagar thana premises.

When the women went to the SJPU for the release of their children, the children were beaten further in front of the mothers. While the two mothers were not allowed to leave, the children were released by other relatives (the next day). **ZZ** was beaten by the police and locked up. The police broke into her house, and seized her own jewellery, like anklets and showed it as stolen property. Two theft cases have been filed against her; one by Kamala Nagar thana and the other by the Crime Branch. **YY** is currently out on bail. She spent 5 to 6 days at the thana. Without being produced before a judge, her police remand was taken by Kamala Nagar police from Crime Branch. Every night she was taken to Mahila Thana and brought back to Kamala Nagar in the mornings. The police would strip her and beat her. The violence was so bad that even months later, she has not fully recovered.

CCC, 14 years old, has never been to school. **CCC** said that the moment police sees any one from the Pardhi community, they ask for money. She does not remember when she was first picked-up nor the reason for the same. The police keep picking them up for no reason, except for the fact that they are Pardhis. A couple of months ago when she was rag-picking at P&T Roundabout in front of a welding shop, where small pieces of iron, like nails, are found, the police came and contended that she had stolen iron. They emptied her sack. Despite not finding any stolen iron or any other article, she was taken to Kamala Nagar police thana. "Chotiwalla Pandit" was the police officer. He used abusive language. He also stated that "you people are great thieves". Then from under the staircase of the police thana, where "kabad" i.e. scrap material was stored, Chotiwalla Pandit pulled out an iron rod and made accusations that it was found in her sack. **CCC**'s father was then informed and despite his protests, was forced to pay Rs. 3,000/- to the police. **CCC** says this was her seventh encounter with the police, but never has a case been registered against her. On being asked if she was beaten up by the police, she conveys, "No, they only gave me two slaps." On one occasion in T.T. Nagar thana when her mother came to get her released, the police kicked her mother in her uterus for which she had to go through prolonged medical treatment which cost Rs. 4,000/-.

DDD is 16 years of age. She has been picked up by the police thrice, twice by Kamala Nagar thana and once by T.T. Nagar thana. She said that while she was rag-picking, the owner of a nearby house insisted that she had broken their lock to gain entry into their home, and beat her. The house-owner then called the police, who came and took her to Kamala Nagar police station. **DDD** pleaded

with the police that she had not attempted to break into anybody's house. It was only when Muskaan intervened was **DDD** allowed to go home. Later that evening the Police came to her house and took Rs. 1,500/- from her. On an earlier occasion too she had been released by the police attached to Kamala Nagar thana on payment of Rs. 1,000/-. She says that she was beaten in the Kamala Nagar police thana, but not in T. T. Nagar thana. **DDD** informed that the police comes to Rajeev Nagar and harasses the people on a weekly basis.

EEE is 16 years of age. She is **DDD**'s cousin. Police have picked her up from Aradhana Nagar about five to six times. Police beat her and take her to the police station. About a month ago, the police produced **EEE** before the Child Welfare Committee, and she was kept in the shelter home for ten days.

FFF, 15 years, said that she was picked-up by a police van at 6.00 a.m. while she was waste-picking. The police beat her with a danda in the van. **FFF** was taken to Kamala Nagar police station. The *kabadiwala* came to the police station around 8.00 a.m. and gave the police Rs. 2,000/- to get her released. She told the team that someone or the other being picked up by the police, while waste-picking is a daily phenomenon.

GGG, 14 years old, was picked up by two policemen while she was waste-picking, and taken to Kamala Nagar police station, where she was kicked and beaten with a baton (*danda*) resulting in bleeding from her forehead. **GGG** was released only when her parents paid Rs. 2,000/- to the police. Due to the injury **GGG** required medical treatment.

HHH is a 16 years old boy. A month and a half ago, **HHH** was picked up by the police from the market place and kept in the Bagh Sewaniya police station for a month. Police demanded Rs. 2,00,000/- from his mother. She paid the police Rs 70,000/-, and **HHH** was released. **HHH** said that if the amounts demanded are not paid, multiple false cases are foisted upon those picked up. **HHH** informed that he was repeatedly tortured in the police station; he was kicked and beaten with the baton, in a manner that does not leave external injury marks. **HHH** was given electric shocks by inserting wires between his fingers. Policemen also verbally abused him, saying that all Pardhis are thieves. He was incarcerated in the lock up with around 15 to 20 others. The policemen often drank in the police station at night. He also shared that while he was there, some 10 to 12 children aged 8 to 9 years were brought and kept in the police station.

III, an 11 year old boy, was picked up by the police about 25 days ago. He was beaten with a pipe and belt. **III** does not go to school. He goes rag-picking with his aunt and earns between Rs. 50/- to Rs. 100/- per day.

JJJ is 12 years old and studies in standard VI. He goes rag-picking on Sundays. So far he has not been picked up by the police, but once near a construction site **JJJ** was beaten by persons working at the site.

KKK is 13 years old and has not been to school. He is a waste-picker. The last

time when he was picked-up by the police, he had with him some iron that he had gathered; he was beaten by the police with the belt of a grinding machine (*aata chakki*). He added that the police pick them up and beat them irrespective of whether they have scrap on them or not. Once when he was drinking tea at a tea stall near P & T roundabout, the police came and picked him up only because he was identified as a Pardhi. **KKK** when asked if police use any verbal abuse, said no, the police only say “Pardhi, Pardhi, tore up your mother’s.....” (*Pardhi Pardhi teri maa ki fad di*).

LLL, 18 years, told the Fact Finding Team that the police pick him up even when he goes to Kotra Bazar to watch a movie. On being asked why does he think this happens, he says that when the police come to know that the person is a Pardhi, they pick him up. He claims that Pardhis are identified due to the language which they use with family and friends. **LLL** works during the marriage season as a waiter. At the end of their working day, which is quite late, sometimes as late as 1.00 a.m. or 2.00 a.m., the left over food is distributed amongst those working for the caterer. **LLL** has to walk home at such late hours as the buses do not ply. If he comes across the police, they tell him, “Oh, you are returning after stealing?” And on his reply that he worked as a waiter, hence was given the left over food, he is taunted by the police, “From when have Pardhis started working?” **LLL** says that this pains him the most, even when he toils and works hard, the police insult him or pick him up.

MMM, 13 years, has never been to school. She narrated an incident of last year when she was at her relative’s house in Dhar. The police came to her relative’s house and told them that they had committed robbery in seven villages in broad daylight. **MMM**’s relatives offered for their person and house to be searched. Police conducted the search, but did not find anything. Fifteen of them, including **MMM**, were taken to the police thana. When **MMM** said that she was visiting from Bhopal, they did not believe her. They were beaten in the thana and told that if they did not confess to the crime, they would be killed. They were thrashed with belts and dandas, and an FIR was lodged against all of them. All the arrested were later kept in Dhar jail, including **MMM** even though she is a child. Her age can be estimated by the fact that she got her first periods when in jail. On **MMM** being told by the Fact Finding Team that a child cannot be put in jail, her answer was, “Nobody listens to us”. It was only after Muskaan’s intervention that **MMM** was shifted to the Observation Home at Vidisha. She said that she had been released from Vidisha just a couple of days ago.

NNN, between 16 to 18 years, said that after a long time he decided to go waste-picking. He had stopped due to police harassment. As he left his house with his sack, the police picked him up, and he was badly beaten. He says his mother had to spend Rs. 10,000/- to get him released.

Meetings with Relevant Authorities

Kamala Nagar Police Station

The Fact Finding Team made a visit to Kamala Nagar police station and met with the Child Welfare Officer, Amar Singh [2-star]. Mr. Singh informed that he has been appointed as Child Welfare Officer about a year ago. When questioned about police harassment of waste-pickers, Mr. Singh stated that “Pardhis commit crimes, therefore, they are outside their homes at 4.00 a.m.” He said that the entire Pardhi tribe are criminals. He claimed that ten to twelve major thefts occur every day, and that parents make their children thieves while the father sits at home and drinks. He further claimed that rag-picking is only an excuse to go around looking for vacant houses to steal from. Mr. Singh said that the police counsel the children, they do not register criminal cases against them. Police are attempting to improve children’s lives [*“bacche kachre mein hain, police unko jameen par laana chahti hain”*], but non-governmental organisations, such as Muskaan, interfere in their work, and defame (*badnaam*) the police. He admitted that he had received no training in counseling.

Mukhtar Qureshi, the Thana In-charge, spoke very briefly to the Fact Finding Team as he was busy with the Chief Minister’s impending visit. Mr. Qureshi opined that many communities are traditionally connected with crime and categorically stated, “Pardhi children steal” (*Pardhi samaj ke bacche chori karte hain*). Crime according to him was rampant in the area because of Pardhis. Mr. Qureshi also claimed that Pardhi families did not send their children to school instead deployed them to commit thefts. He believed that the reason Pardhis get out of their homes before sunrise is to steal. When we pointed out that waste-pickers everywhere start their day early before the garbage is picked up, and that there were high crime areas where no Pardhis resided, he did not have anything much to say.

Nishatpura Police Station

The Fact Finding Team met with Police Inspector (PI) Rajiv Jangle. He said that Nishatpura was an infamous police station as there were many slums nearby. He also said that the police cannot be effective until they pick up the stick (*“Dande ke bina police ka kaam nahin hota hain.”*). He had complaints with regards to Childline and Juvenile Justice Board, mainly that they do not sufficiently “brainwash” children to ensure their reformation. Mr. Jangle repeatedly spoke about the role of children in crime, especially those residing in bastis. Children

cases are difficult to handle. Children commit 25% of the crimes. It is children from the slums who as criminals. (*“Bachhon ka case hai toh bahut pareshani hoti hai”; “Bhopal mein 25% apradhi bachhe hain”; “Bachhon ke case toh slum se hi hote hain.”*)

The conversation with the PI suggested that he was against teenagers being brought under juvenile legislation. PI Jangle went to the extent of asking the Fact Finding Team as to whether they still believed 18 years to be an appropriate age for juvenility when a proposal to reduce the age of juvenility was being considered by the legislature.

Special Juvenile Police Unit [SJPU]

The SJPU at Bhopal has been established since June 2009. Its location has been shifted to T.T. Nagar police station earlier this year from the Crime Branch, M.P. Nagar Thana premises. It functions under the charge of PI R.S. Baudana, who was not there when the Fact Finding Team visited. The Fact Finding Team spoke with Chandrashekhar Chhapre[API], who has been with the SJPU since March 2014 and R.S. Borona [Police Constable]. SJPU in Bhopal is supported by Aarambh, a non-governmental organization, that also runs the Childline in Bhopal, and whose representatives sit in the SJPU office and were present when the Fact Finding Team visited.

The SJPU office runs for 24 hours, i.e., both the police and Aarambh are present. Mr. Chhapre informed that juveniles who are apprehended later in the evening or night spend the night at the SJPU office, and are produced before the Juvenile Justice Board when it starts functioning at 11.00 – 11.30 a.m. The Fact Finding Team was shown an adjacent room with bunk beds where the children are kept.

When asked how many children are brought in everyday, the Fact Finding Team was informed that about 3 or 4 children come on an average day. However the Register maintained, did not reflect this. On several days, there weren't any such entries. The SJPU maintains Registers - one Register perfunctorily shown to the Fact Finding Team contained serially maintained records of the date and time when a child was brought to them; whether such child was a child in need of care and protection, such as an abandoned child, or a juvenile in conflict with law. Many of the children reach the SJPU office late at night. Those children that are to be produced before the Juvenile Justice Board, were often released early in the morning, as reflected in the Register, to the custody of the same police personnel who had brought them in. Upon reading the register, Mr. Chhapre had to admit that at times the police remove the children from the SJPU office well before they need to leave for the JJB, but he was not able to give any convincing reason for the same.

Mr. Chhapre also showed the Fact Finding Team some samples of individual case records. It was seen that the same policemen that bring and take away the children also get them medically examined.

Mr. Chhapre denied the incident regarding beating of the two boys from Rajeev

Nagar by police attached to Crime Branch in the SJPU office. This incident refers to that of 14th April 2015, when **ZZ** and **AAA** (refer above) were picked up from outside a temple and a shop at 8.00 a.m. and 11.00 a.m., respectively, by police attached to the Crime Branch and taken to M.P. Nagar police station, where they were beaten up to make them to confess crimes they had not committed. At 4.30 p.m., the boys were taken to the SJPU office. The boys' families, not knowing the whereabouts of the children, went in search of them to different police stations, and were ultimately directed to SJPU. On reaching SJPU, they were asked to submit documents of identification. On their return, after having collected such documents from home, they witnessed, police attached to the Crime Branch beating the boys in the presence of SJPU and Childline [Aarambh] – they were boxed on the ears, pulled by their hair and thrashed, and questioned as to whom the stolen articles had been passed on to. **AAA** was then taken to Rajeev Nagar and his home searched, no stolen articles were found, except for his mother's anklets. **AAA** was thrashed in front of the residents.

Mr. Chhapre claimed that the only complaint filed with them with regards to such police harassment was the one filed by the NGO Muskaan. The police spoke negatively about Muskaan. Aarambh representatives corroborated and supported whatever the police said, and also claimed that no such harassment had taken place. Mr. Chhapre also denied knowledge of the directions of the Madhya Pradesh Human Rights Commission directing disciplinary action / suspension of police officers responsible for illegal detention and payment of compensation to those illegally detained in an earlier such incident. The details about the visit of the Madhya Pradesh Human Rights Commissions visit to T.T. Nagar police station are contained below.

Child Welfare Committee [CWC]

The Fact Finding Team visited the Child Welfare Committee of Bhopal. The CWC sits thrice a week in Balika Griha, a state-run home for girls, from 1.00 p.m. to 5.00 p.m. When the Fact Finding Team visited the Chairperson and two members, including one female member, were present. During interactions it appeared that the CWC is not aware of the cases of violence and harassment against children at the hands of police and their illegal detention. The Chairperson offered that if such cases are brought before the CWC, they would take cognizance but added that they have not received such complaints. However, one of the CWC member shared that 12 to 13 cases have been brought to their notice in which cognizance is being taken. However, CWC has never taken cognizance of such cases on its own.

Juvenile Justice Board [JJB]

The Fact Finding Team met with the members of the Juvenile Justice Board at their place of sitting in the boy's Observation Home at Jehangirabad. The Principal Magistrate has been recently appointed.

The information gathered from the JJB was that children who are produced before them are mostly from rural areas or slums, but not from any particular community. The juvenile cases before them did not show that Pardhi children were significantly involved in crime. They claimed that those children repeatedly produced before them were into crime because of the family situation. What the Fact Finding Team gathered from the conversation with the JJB members was that police did not produce relevant documents regarding the children before the JJB, such as, proof of age determination, and also that the police do not bother to comply with their orders / directions. They believe that the SJPU should play a more proactive role.

They also shared there have been occasions when they had ordered a medical examination or reprimanded the police when it was obvious that a child had been manhandled in police detention, but they have not pursued any such matter as no complaint has been filed before them. Furthermore, the police records reflect that the child has been produced before the JJB within the time stipulated by law.

The social workers of JJB also spoke with the Fact Finding Team. They said that the same children are repeatedly brought before them as juveniles in conflict with law. If a child is arrested for a mobile theft, then the police tend to foist many more thefts on him, even when there is no suspicion against that child. The police targets the more vulnerable children, such as those where the mother is the sole parent, girl children etc. They also voiced that even if the police may not indulge in any physical act of sexual violence, '*aakh sek lete hain*' (they are able to take voyeuristic pleasure) of the single mother as she is the one who repeatedly comes to rescue her child. Children inhaling intoxicants also become easy targets. It is often that children are kept in the police station for 5 to 6 days so as to force the child to confess to the crime. In cases where there has been reasonable suspicion against a person belonging to an affluent family, such person has not been arrested, in his place a vulnerable child is picked up, and society believes justice has been done. The children are too frightened to talk in the presence of the police, and, hence, do not make any complaints against them, but it is easy to gauge that there is a problem because the child keeps looking at the accompanying policemen when asked if there is any problem.

District Child Protection Unit (DCPU)

The Women Empowerment Officer is also designated as District Child Protection Officer [DCPO]. He has been posted only a month ago. He is more involved in doing his primary duty, the additional portfolio of DCPO receives secondary attention. It is important to note though his salary is drawn from the Integrated Child Protection Scheme (ICPS) funds. When he was informed about harassment of children by the police, he claimed that since he has recently been given this additional task, he is not quite aware of the situation. However, he did agree to look into the matter of such violations if they are brought to his notice.

Documents Perused

Newspapers [2015]

Newspaper cuttings of Bhopal (Dainik Bhaskar of 21st June 2015) revealed the mysterious death of a 19 year old youngster in judicial custody. The jailer has categorically stated that he was handed over by the police in a wounded state, and the family also claims extensive torture while in custody at Crime Branch, M.P. Nagar Thana and then T.T. Nagar Thana when the extortion amount could not be raised and given to the police.

Complaints filed to senior police officers (2014-15)

The Fact Finding Team perused four complaints made to IG or DGP regarding illegal detention and treatment of children and/or adults at various police stations in the city during the past year. In one case, a resident of Rajeev Nagar had been kept and beaten at Kamala Nagar thana for over two weeks and was produced in court only when senior police personnel were petitioned. In another similar case, a Pardhi man was detained in Gandhi Nagar Thana for three weeks and produced in court from Misrod Thana when a complaint of the same was made to the IG.

Surprise visit by Madhya Pradesh Human Rights Commission to T.T. Nagar police station [2009]

A surprise visit by the Madhya Pradesh Human Rights Commissions (MPHRC) to T.T. Nagar police station had revealed that children belonging to the Pardhi community were beaten and illegally detained for about four days. MPHRC in its letter No. 1431 / 10, with enclosure, sent to the police authorities, stated that on 15th January 2009 when their representative visited T.T. Nagar police station, 3 minor girls and 2 boys were found detained there, and such detention is in absolute violation of the D.K. Basu Guidelines issued by the Supreme Court. The MPHRC team was shown injury marks, and informed by those detained that they had been beaten by the police. MPHRC observed that if one hopes for a crime-free society, the police, themselves, should first undergo reform; police has caused mental and physical harassment to a minor girl who goes waste-picking, taken bribes and pushed her into committing suicide. The said

letter also mentioned that the police are taking advantage of the poverty and vulnerability of a certain section of society, and that if this is the situation in the State's capital which has come to light on their inspection, how much worse would the situation be in the rural areas. The MPHRC also visited Pardhis in their bastis, where the women informed that they do not want to survive on waste-picking but have no option as every time they go to the market to sell their wares, they are picked up by the police and taken to the police station. It is only on payment of bribe that they are released. The women say that they pay the money as they do not want to get involved in the quagmire of lawyers and courts.

The Fact Finding Team has perused order dated 15th October 2010 passed by MPHRC that has directed initiation of disciplinary action against Umesh Tiwari of T. T. Nagar police station and compensation of Rs. 5,000/- to each of those illegally detained at the said police station. The MPHRC in its order has also observed that the police and doctors collude to give a "negative report" regarding the injury sustained due to police beating.

The National Commission for Protection of Child Rights (NCPCR) after its public hearing held in Bhopal in February 2009 while referring to police harassment had observed and recommended (as reported in Hindustan Times dated 12th February 2009), "...this was complete violation of child rights and directed authorities to identify policemen...and initiate strict action against them."

Madhya Pradesh Human Rights Commission Report on inquiry into Tintibai's suicide [2008]

The team reviewed the Inquiry Report dated 23-8-2008. The inquiry conducted by R.K. Minnare, DSP, M.P. Human Rights Commission was based on a complaint [Case No. 12120/Bhopal/08] for investigating the charges against the police for pushing a young girl to commit suicide on 19-1-2008. The investigation entailed interviews with over 30 people, of the basti settlements, police officers, middle-class society members as well as NGO workers. The report concluded that "After the complete investigation of the case, I find that it is the truth that on the date of 19-1-2008, at 6:15 a.m., ASI, Kamla Nagar Thana brought Tinti Bai, 15 year old and her sister-in-law, Heroin, 19 years old to the thana when they were handed over from the road while waste-picking, on the suspicion of thieving. In the thana, ASI Yadav beat up the girls, touched Kumari Tintibai's chest and tried to exploit her, and threatened to send her to jail, and then determined a bribe amount to free them. Ku. Tinti Bai who had earlier also been harassed in false cases of theft, went home and hung herself to death. I,...conclude that by illegally detaining the girls, not informing their families for 6-7 hours, and physically, mentally and financially exploiting them and violating Tintibai, ASI Shri M.L.Yadav has played a role in abetting this suicide,

and find him guilty under Section 342/354/306. ... By detaining an under age girl in the Thana and breaking laws, I also find him guilty of violating the girl's human rights." (pg. 54).

"On hearing the testimonies of the children, ..as a police officer, in the spirit of patriotism and public service, one is forced to think that these Pardhis are better than the police personnel. They who don't have a secure place, nor enough warm clothes, nor adequate food to eat are earning by working hard by waste-picking, and thinking well in spite of these circumstances. On the other hand, those to whom the government has given a uniform and a baton in their hand and the power of law, provisions to stay and a regular salary are also in the name of public service and patriotism exploiting the poor and marginalized and looting from them."

Findings

These findings are based on the information gathered by the Fact Finding Team through conversations with the residents of the different settlements and representatives of relevant authorities, and through documents perused and their own observations.

The conduct of the state agencies, especially the police, is in absolute violation of the Constitutional and other rights of the people, as well as international instruments to which India is a party, such as non-discrimination; right to life and personal liberty; protection from physical / mental violence; adequate standard of living; right to education; rights of indigenous populations. Most importantly, Article 37 of the Convention on the Rights of the Child, acceded to by Government of India on 11th December 1992, states, “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” and “No child shall be deprived of his or her liberty unlawfully or arbitrarily.”

1. Police Atrocities and Harassment

The children and adults unequivocally narrated instances after instances of police brutality, especially on children, both girls and boys. There would hardly have been a family in the bastis visited that had not faced atrocities and / or harassment at the hands of police. Police’s unlawful or unsuitable conduct has resulted in people’s situation worsening, and them living under constant stress and terror.

Illegal detention is a common practice. Police randomly pick up basti- dwellers, including children, bring them to the police station, torture them, and release them only when monetary demands are met. Police have entered homes in the middle of the night, sometimes in a drunken state, and picked up the inhabitants. Boys and girls, some as young as 6 years have been so treated. Those picked up are kept at the police station for several hours, sometimes days - no criminal cases are registered against them, nor are they produced before the Magistrate or Juvenile Justice Board.

Detaining people in police stations without production before the Magistrate is an absolute violation of Article 22(2) of the Constitution, which is a fundamental right. Article 22(2) states, “Every person who is arrested and detained in

custody should be produced before the nearest Magistrate within a period of 24 hours of such arrest...". Article 22(2) should be strictly followed as it ensure for a judicial mind to examine whether the arrest is in accordance with law. Those picked up are deliberately not produced before the Magistrate / Juvenile Justice Board as they have not committed any offence. They are also not informed "of the grounds of such arrest³", thereby denying them their fundamental right under Article 22(1). The Supreme Court in several cases has awarded compensation to those illegally detained by the police. Illegal detention also violates Article 21 of the Constitution, "No person shall be deprived of his life or personal liberty except according to procedure established by law" – there is no law in force that allows such detention.

When basti-dwellers have mustered strength to approach courts to challenge such illegal detention, false charges are levied on them by the police, as was done to **P**.

Police atrocities / torture upon the basti-dwellers, mostly children, range from electric shocks, hanging upside down and beating, being beaten with batons and dandas, pricked with pins. Torture in detention flouts fundamental rights guaranteed by the Constitution, and is an affront to human dignity. The state is responsible for its officers who contravene a citizen's right to personal liberty. It was noticed that due to regular intense violence, there has been a normalization of violence among the people - slapping at the hands of the police is not considered as violence. The police also think nothing before carrying out frisking and searches of homes without any authorisation.

Though not voiced frequently the team found some cases of overt sexual violence - penetration of the anus with rods, touching of breasts and asking for sexual favours for release. Verbal abuses of sexual nature are common place.

General Comment No. 13 (2011), The right of the child to freedom from all forms of violence, framed by the Committee on the Rights of the Child, places upon the state, the duty to abolish violence against children : "Addressing and eliminating the widespread prevalence and incidence of violence against children is an obligation of the States parties under the Convention." It recognizes police personnel as a state actor and police stations as a setting where children face violence.

To escape torture, children confess to crimes they have not committed, and a criminal case is thus solved. The General Comment No. 13 states that violence is used "against children in order to extract a confession to extrajudicially punish children for unlawful or unwanted behaviours".

In *D. K. Basu vs. State of West Bengal*⁴, the Supreme Court states, "Custodial

³ Article 22 (1) of Constitution : "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest..."

⁴ [1997] 1 SCC 416.

violence, including torture and death in the lock ups, strikes a blow at the Rule of Law, which demands that the powers of the executive should not only be derived from law but also that the same should be limited by law. Custodial violence is a matter of concern. It is aggravated by the fact that it is committed by persons who are supposed to be the protectors of the citizens. It is committed under the shield of uniform and authority in the four walls of a police station or lock-up, the victim being totally helpless. The protection of an individual from torture and abuse by the police and other law enforcing officers is a matter of deep concern in a free society.”

Foisting of several criminal cases upon those picked up, when extortion demands are not satisfied is a common occurrence. Exorbitant extortion demands are made by the police, and family members bargain to get the same reduced, and borrow money to meet them.

While in police lock up, children are made to do menial work, such as, cleaning latrines, mopping the floor, washing police vehicles, on the promise that if they so work, they will be released. Needless to say, they are released only when police’s monetary demands are met.

General Comment No. 13 seeks for effective remedies “including compensation for victims and access to redress mechanisms and appeal or independent complaint mechanisms.”

The Fact Finding Team observes that despite several representations made before the National Human Rights Commission and the State Human Rights Commission, the situation has not changed, and these human rights violations continue unabated.

Police are also apathetic towards complaints of basti-dwellers as is reflected in **F**’s narration. No efforts were made by the police to find **F**’s missing daughters. It was three years later that the girls were traced, no thanks to the police.

Due to regular persecution at the hands of the police, basti-dwellers are fearful of accessing them in case of disputes, and are compelled to seek resolution among themselves. There is no escape from oppression as Jati Panchayats, whom the community approaches, are entrenched in hierarchical patriarchal values.

Democratic institutions when approached have also failed to respond appropriately. It is only concerted intensive effort that can change such a well-established organized practice.

2. Stigma against the De-Notified Tribes and the Pardhi community

Many of the bastis visited, had a large number of Pardhi population. The Irani community is a nomadic tribe; the Fact Finding Team interacted with those of the Irani community who had settled in Aman Colony.

The branding of Pardhis as “criminals” continues in post-independent India, despite repeal of the Criminal Tribes Act 1871 in 1952. Such branding has deprived the Pardhis of opportunities, and led to their lingering marginalisation. Anybody supporting Pardhis is perceived as a trouble-maker and as obstructing positive intervention of the police.

Historically the De-Notified Tribes, the nomadic and Pardhi community have suffered stigma due to their distinct language, culture, etc., as it affronted the dominant Brahminical culture. Pardhis form part of the indigenous population of India. This cultural stigma has since grown into criminal stigma because of which they are targeted by the police and civil society. They are unable to obtain jobs even if educated, therefore, some believe that studying serves no purpose. A number of them engage in petty business, whereas other families depend on rag-picking or scrap collection for survival.

Due to this criminal stigma, the Pardhis are looked upon suspiciously and persecuted by the police even when performing routine activity – buying samosas, going marketing, playing in public parks. Public humiliation is an everyday affair. On identifying a Pardhi, the police verbally abuse them and their community, “*Tum Pardhi log chori karte hain.*” (You, Pardhis, are thieving.)

Residents of middle-class colonies complain to the police if Pardhis are seen around their homes. Several basti-dwellers have spoken of beatings and / or detention by such residents. The collusion of the police has emboldened this vigilantism.

This victimization has forced those belonging to the Pardhi community onto the fringes, preferring to live with their own rather than mingle with others, thereby enhancing the divide. Their bastis, as them, are referred to in derogatory terms – Gandhi Basti.

Atrocities committed upon people, including children, by the police has been brought to the notice of relevant authorities – DGP [Bhopal], IGP [Bhopal], In-charge of T.T. Nagar police station, Madhya Pradesh Women’s Commission, State Human Rights Commission – but the harassment continues unabated. It appears that the police believe that they can continue acting as they wish, and get away with the same as nobody is concerned about Pardhis, and such belief has percolated in the society.

In view of the aforementioned, it comes as no surprise that residents of Gandhi Nagar feel that “the system treats their whole community as an enemy.”

3. Environ of Criminalisation

The state by its deliberate design is guilty of perpetuating the criminalization of those belonging to certain communities, such as Pardhis, as also, criminalising activities that are necessary for their survival, such as rag-picking. In imitation-mode, civil society, as it is today, reflects the attitude of the state.

On the one hand, the state has failed to provide people with their basic necessities, and on the other, when people attempt to eke a living, they are targeted. Some of the residents of the bastis visited earn their livelihood through petty business, such as, selling spectacles, semi-precious stones etc, whereas most survive by rag-picking or scrap-collection. The police pick up those who go waste-picking as soon as they leave their homes in the early hours of the morning, claiming that they are on their way to steal – this is a pretext for extortion. The measly amounts that they earn through rag-picking, and more, is distributed among the police for the release of those detained in police lock-ups, so that those picked up can go rag-picking the next day to feed their family. There are many who profit from this, and provide immediate loans at heavy rates of interest, and entrap people in long-term debts.

Their distressing lives have pushed the adults into alcoholism, and children as young as 7 years have been known to consume gutka, furthering their negative stereotyping – Pardhis are addicted to alcohol and narcotic substances.

Such criminalization by the police is intentional - it enables them to take advantage of the vulnerability of the people by converting it into a means for money extraction and / or subjugation.

4. Denying Children the Protection of the Juvenile Justice System

There has been blatant contravention of juvenile legislation.

Under the Juvenile Justice [Care and Protection of Children] Act 2000, all children, i.e., persons who have not completed 18 years of age, alleged to have committed an offence should be produced before the Juvenile Justice Board within 24 hours of their apprehension [section 10(1)]. The aforementioned depositions show that children are regularly picked up by the police and taken to the police station where they are illegally detained for a period ranging from several hours to several days in absolute violation of juvenile legislation. No case is registered against these children, nor are they produced before the Juvenile Justice Board. The children are ultimately released on their parents meeting the monetary demands of the police.

Children are tortured while in police lock up, thereby, compelling them to “confess” or “admit” to commission of an offence / offences. Multiple fabricated cases are foisted on children by different police stations. A’s custody was taken by three police stations and fourteen cases were foisted upon him.

At the onset of apprehension of the child, the implementation of the Juvenile Justice [Care and Protection of Children] Act 2000 is dependent on the Juvenile or Child Welfare Officers designated in each police station. The field reality shows that children have never found a helpful police person in the thana who tries to oppose violence, torture and prolonged incarceration. No child reported any interaction even close to counselling. The lone Child Welfare Officer that

the team met also displayed the same bias as the others. This led the team to conclude that, the Juvenile or Child Welfare Officer works in complete tandem with the other police personnel at a thana, usually at the cost of the child's rights.

The Juvenile Justice Board informed the Fact Finding Team that medical examination had shown that a child was manhandled in police detention, but the Board did not pursue the matter for want of a complaint. It is for the Board to make efforts to garner the trust of the children and to create an environment where the children feel safe thereby encouraging them to speak about the abusive treatment meted to them by the police and respond to that.

Children against whom criminal cases are registered are brought before the Magistrate by the police, despite them having documentary proof of their juvenility, such as Birth Certificate. It is only after having spent time in police lock-up, and, sometimes in jail, that they are brought within the ambit of the juvenile justice system, as was the case with **A**. In the case of **MMM**, she attained puberty in judicial custody which clearly implies that her young age would have been visible, but she continued to languish in jail till Muskaan's intervention.

Often the parents are not informed of their children having been picked up by the police or having been placed in the Observation Home. For example, **L**'s mother has deposed that she went in search of her daughter from one police station to another before finding her. **L** was thereafter shifted to the Observation Home, but her parents were informed of the same eighteen days later. This is in absolute contravention of the Juvenile Justice [Care and Protection of Children] Act 2000. Clause (a) of section 13 of the Juvenile Justice [Care and Protection of Children] Act 2000, *Information to parent, guardian or probation officer*, states, the officer in-charge of the police station should inform "the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board before which the juvenile will appear".

5 . Misuse of the Juvenile Justice System and its Impact

The Juvenile Justice [Care and Protection of Children] Act 2000, as amended in 2006, is a socio-beneficial legislation. The provisions of the said Act should be interpreted so as to advance children's rights, and not to their detriment.

As mentioned above, children are regularly being picked up by the police, detained and tortured, till their extortion demands are met, or criminal cases are foisted upon the children.

Children have been separated from their parents by the police and produced before the Child Welfare Committee, only because they were rag-picking – they have spent days in Children's Home prior to being reunited with their family. **F**'s narration is most alarming as it indicates that the police nor the Child Welfare Committee nor the residential institution in which his daughters were placed were able to find the family of the children for three years! This truly reflects

the callousness of the system towards children of marginalized communities.

Such treatment is contrary to the spirit of juvenile legislation, and amounts to targeting of poverty and vulnerability. Children had different ways of coping with police brutality and ill-treatment which was reflected in their narration – some children started crying while narrating the incident, some were laughing, some were speaking excitedly with shining eyes – there was no doubt in the minds of the Fact Finding Team members that the incidents of police brutality / harassment had scarred the psyche of each who had encountered it.

Picking up children when performing their normal activity, allegedly for offenses or begging, instills fear and insecurity amongst them. **DD** started crying when members of the Fact Finding Team first attempted to speak with him. When police approach children, the children get scared and run because of which they are picked up and beaten.

Children go rag-picking to supplement their meagre family income as adult members are unable to obtain jobs, often because of their community status. Instead of assuring access to opportunities, children are separated or lured from their families by the police, and treated as children in need of care and protection. Parents or relatives due to no fault of theirs are then forced to run helter-skelter to claim their children.

State agencies of child protection do not acknowledge that parents living in impoverished conditions also love and care for children. Parents are often seen as perpetrators of crime who use their children in criminal activities or for making money, and therefore unfit for parenting. The state agencies fail to recognise that there is a wider reality of living in poverty with limited options and opportunities different from the middle class.

Scant earnings are expended in getting children and other family members released from the clutches of the police, resulting in further destitution. Often, indebtedness is the consequence of families being compelled to borrow money for such purpose.

6. Complicity of the Special Juvenile Police Unit

Special Juvenile Police Unit, a creation of the Juvenile Justice [Care and Protection of Children] Act 2000, to handle children's cases in the correct perspective, has been constituted in Bhopal. It is manned by the police and a non-governmental organisation to ensure that children are kept in a safe environment till their production before the Juvenile Justice Board.

Given the complaints of the children about police violence, it is alarming that children are handed back to the same police at early/late hours of the day (knowing that JJB will not be functioning at that time). Also a child being given to the same police for a medical examination is questionable. The medical examination report cannot be trusted to be objective.

The beating of two juveniles of Rajeev Nagar by the police in the Special Juvenile Police Unit's office shows that the filters created for protection of children are co-opted into the system and fail to play their envisaged role – not only were the police allowed access to the boys when in control of the Special Juvenile Police Unit, within and without Special Juvenile Police Unit premises, no one intervened to stop the beating. Neither did they report the incident to the superior police officers nor did they meet the children to investigate the issue further after receiving the complaint, resulting in the cover-up of this incident.

It is imperative that non-governmental organisations working within the system in the interest of children raise their voice against police atrocities rather than fall in line with the unlawfulness of the system.

7. Neglect by state : Inadequate infrastructure and absence of amenities

Right to Life under Article 21 of the Constitution obligates the state to provide basic necessities of life to the people. In *Francis Coralie Mullin vs. Administrator, Union Territory of Delhi & Ors.*⁵, the Supreme Court held that the right to life includes “the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms...”. In *Shantistar Builders vs. Khimalal Totame*⁶, the Supreme Court opined, “The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow him to grow in every respect – physical, mental and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home.” The Supreme Court in *Chameli Singh vs. State of U.P. & Anr.*⁷ observed, “Right to live guaranteed in any Civilised society implies the right to food, water, decent environment education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights.”

General Comment No. 4, *the Right to Adequate Housing*⁸, states that “adequate housing”, inter alia, includes, legal security of tenure [“all persons should

⁵ [1981] 1 SCC 608

⁶ AIR 1990 SC 630

⁷ (1996) 2 SCC 549

⁸ Issued by the Committee on Economic, Social and Cultural Rights.

possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats”], availability of services, materials, facilities and infrastructure [“must contain certain facilities essential for health,...safe drinking water,...lighting, sanitation...site drainage and emergency services”], location [“access to health care services, schools... and other social facilities”].

The Fact Finding Team observes that the inhabitants of the bastis visited are deprived of the right to life guaranteed under the Constitution in as much as they are denied adequate shelter, basic amenities and the right to live with human dignity. Denial of these rights amounts to gross violation of human rights by the state and its agencies.

No roads have been constructed by the local authority for convenient access to the bastis. Due to absence of drainage facilities in order to access their homes, the residents have to wade through water and “*kicchal*”, especially during the monsoons, which creates unhygienic living conditions.

Tap water connections are almost universally absent and basti-dwellers are forced to purchase water through water tankers or from those who have a source of water. Homes in certain bastis had been provided with electricity connection, whereas most have no metered electricity.

Very few homes have sanitation facilities, nor are the bastis provided with common toilet blocs, hence, per force all members of the settlements including women and children, defecate in open places around their settlements. Many a times this brings the residents in conflict with the middle-class living in nearby colonies.

Lack of public health services was observed in all bastis, except in Gandhi Nagar, where there is a Community Health Centre whose services are available during the day. The people, hence, have no option, but to approach private doctors or clinics for medical ailments. Basti-dwellers have complained to the Fact Finding Team that when they sought medical treatment due to police beating, a state-run hospital refused to treat them in the absence of the police.

Children go rag-picking for sake of survival. Most have never been to school or have dropped out of school. **AA** told the Fact Finding Team that she has dropped-out of school for rag-picking to help her mother pay back the loan she was compelled to take due to police harassment. **LL** has also stopped going to school due to fear of the police.

Parents of school-going children, whose numbers are few, wish to enrol them in government schools, but are unable to do so as they are located at a distance from the bastis, hence, children are admitted to private schools in the vicinity. Inhabitants of Banjari Basti reported that their children are not given admission in private schools. Residents of Ganga Nagar have complained about

the teachers in private schools who instead of teaching, prefer to sleep in class or go on shopping sprees.

The basti-dwellers though residing there since many years have no security of legal tenure and are fearful of forcible evictions. Even those who have been issued land “pattas” are threatened with demolitions, as is the case of Ganga Nagar. This is so because private developers are desirous of usurping the land upon which these bastis are situated. For two consecutive years, Banjari Basti was burnt, and demolition squad visited the basti without notice, in an attempt to forcibly evict the residents. To further exacerbate the insecurity, basti-dwellers have not been provided with documentary identity, such as, Adhaar Card, Voter Identity Card, Jati Pehchan Patra. In India all entitlements / protection are dependent on these documents, including admission to educational institutions, procuring jobs, and its absence puts the basti-dwellers in a disadvantageous position. Possession of such documents gives the people a sense of security.

8. State’s failure towards children and marginalized communities

It is not what they do but what they are [denotified or nomadic tribes, poverty, homelessness, etc.] that results in their victimization and discrimination. This is definitely not a healthy environment for a child. State is solely responsible for creating this condition.

At this stage, it is necessary to quote from General Comment No. 13, which states that the victims of violence “are often children who are marginalized, disadvantaged and discriminated against and who lack the protection of adults responsible for defending their rights and nest interests”, and includes “children in conflict with the law, children in street situations, minorities and indigenous children and unaccompanied children”. Moreover, General Comment No. 11 (2009), framed by the Committee on the Rights of the Child, Indigenous children and their rights under the Convention, states, “Indigenous children have the inalienable right to be free from discrimination.” The said Committee “notes with concern that disproportionately high numbers of indigenous children live in extreme poverty, a condition which has a negative impact on their survival and development.” It also acknowledges that such children are victims of torture and displacement. Moreover, it is imperative that children belonging to the Pardhi community lead a life free of discrimination and violence, and that the state adopts appropriate measures to ensure the same. The Fact Finding Team has observed that the state machinery instead of alleviating the situation, is worsening the same by its participation or inaction. Absence of stringent measures against the perpetrators, emboldens the police and civil society to continue with their appalling conduct.

Recommendations

- (a) It is important that stringent action against police personnel be initiated and taken to its logical conclusion. The police personnel in majority of the incidents reported in this document are identifiable. Moreover they are repeat offenders of children's rights. Therefore immediate action as per provisions of the JJ Act should be taken against those police personnel.
- (b) First Information Reports should be registered against police personnel when a complaint is made regarding violence / torture and/or illegal detention and/or money demanded within or without the police station.
- (c) (i) Departmental inquiry should be initiated against police personnel when a complaint is made regarding violence / torture and/or illegal detention and/or money demanded within or without the police station.
(ii) Pending departmental inquiry, such police personnel should be suspended from service.
- (d) An investigation under a senior police officer should be initiated into the incident of 14th April 2015 regarding beating of two boys at the Special Juvenile Police Unit by police attached to Crime Branch.
- (e) Government of Madhya Pradesh should pay compensation to victims of violence / torture and/or illegal detention and/or extortion at the hands of police personnel.
- (f) The relevant authorities should take stringent measures to ensure that (i) the children of Pardhis and other de-notified communities are treated with dignity; (ii) no child alleged to have committed an offence is subjected to any form of violence; (iii) those belonging to marginalized communities or their children are not falsely implicated in criminal cases that are reported in the city; (iv) financial extortion from the community is not carried out by the police; (v) in case there is reasonable suspicion of commission of an offence, the legal course should be followed whoever be the alleged offender.
- (g) A Committee of at least five members should be constituted by the State Human Rights Commission to make regular surprise visits to police stations to check whether any adult or child is illegally detained. The Committee should consist of academics, lawyers, social workers, mental

health professionals, journalists and others associated with the social welfare field.

- (h) The Director General of Police should issue a Circular to all police stations that police personnel should stop harassing and humiliating rag-pickers and those belonging to the Pardhi and other marginalized communities, in the absence of which, they shall face departmental inquiry.
- (i) Police should ensure that a strong message is sent to civil society that stringent action, including registration of First Information Report, will be taken against civil society members who beat or restrain or deny access to public facilities / amenities to a rag-picker or person belonging to the Pardhi or other marginalized community as they are equal citizens of the country and their rights cannot be violated because of their socio-economic status.
- (j) The Juvenile Justice [Care and Protection of Children] Act 2000, as amended in 2006, should be complied with in its true spirit for the benefit of children.
- (k) Juvenile Justice Board / Child Welfare Committee should create an environment whereby a juvenile in conflict with law or child in need of care and protection is encouraged to share what he / she has undergone at the hands of the police. JJB or CWC should initiate suo-moto investigation on receiving information regarding police atrocities, with follow-up.
- (l) A child belonging to a marginalized community is not necessarily a child in need of care and protection nor does such child require to be separated from his / her family during 'rescue operations'. District Child Protection Officer should link the child's family with social welfare schemes to assure the child a life with dignity.
- (m) The District Child Protection Unit [DCPU] should also take cognizance of these matters. The Collector, being the Chairperson of DCPU, should look into these matters and direct that First Information Reports are registered.
- (n) A full-time District Child Protection Officer [DCPO] should be appointed so that he / she can concentrate on child protection issues. DCPO should not hold any additional charge nor should any other official be additionally designated as DCPO.
- (o) The Department of Women and Child, government of Madhya Pradesh should with the assistance of academics, non-governmental organisation and others working in the field of children stipulate the mandate, focus, role and responsibilities of the Juvenile or Child Welfare Officer at the police station.

- (p) Measures should be taken by the relevant ministries to change the attitude of the police, Juvenile Justice Boards, Child Welfare Committees and civil society towards Pardhis and other de-notified communities. The Government of Madhya Pradesh should with the assistance of academics, social workers and others working in this field formulate a plan for such purpose, as also to address the needs of the de-notified communities.
- (q) The functioning of the police needs to undergo drastic changes, especially in reference to vulnerable communities. Curriculum of Madhya Pradesh Police Training Academy should contain a module on human rights, democratic rights, civil liberties and socio-economic biases that lead to discrimination against minority and vulnerable communities. The Juvenile Justice [Care and Protection of Children] Act 2000 and its principles, and child psychology and child development should form part of the training curriculum of police officers.
- (r) There is a need to create awareness amongst state functionaries and civil society that waste-picking is not a criminal activity, but is carried out for the purpose of survival and significantly contributes to the recycling industry.
- (s) State Government should provide basic amenities [piped water supply, electricity connections, sanitation and drainage] and facilities [health-care, schools] to the residents of bastis and to assure them security of legal tenure.
- (t) Transparency and sharing of data regarding juveniles in conflict with law, including that pertaining to their arrest, registration of First Information Report, juvenile cases pending / disposed by JJB, is essential. It is important that this information be consolidated and shared with those seeking it and with appropriate senior police functionaries (CID in-charge of Juvenile Justice) and reviewed so that corrective efforts are done timely.
- (u) State agencies should ensure that all, including those belonging to Pardhi / other marginalized communities, enjoy their Constitutional, procedural and other rights, as also those rights granted under the human rights framework at the international platform.

ANNEXURE I

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000 (Excerpts)

CHAPTER - II JUVENILE IN CONFLICT WITH LAW

10. Apprehension of juvenile in conflict with law.-

(1) As soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated police officer, who shall produce the juvenile before the Board without any loss of time but within a period of twenty-four hours of his apprehension excluding the time necessary for the journey, from the place where the juvenile was apprehended, to the Board: Provided that in no case, a juvenile in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government may make rules consistent with this Act, -

- (i) to provide for persons through whom (including registered voluntary organizations) any juvenile in conflict with law may be produced before the Board;
- (ii) to provide the manner in which such juvenile may be sent to an observation home.

11. Control of custodian over juvenile.- Any person in whose charge a juvenile is placed in pursuance of this Act shall, while the order is in force have the control over the juvenile as he would have if he were his parents, and shall be responsible for his maintenance, and the juvenile shall continue in his charge for the period stated by competent authority, notwithstanding that he is claimed by his parents or any other person.

13. Information to parent, guardian or probation officer.- Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after there arrest, inform -

(a) the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board before which the juvenile will appear; and (b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance of the Board for making the inquiry.

23. Punishment for cruelty to juvenile or child.- Whoever, having the actual charge of or control over, a juvenile or the child, assaults, abandons, exposes or willfully neglects the juvenile or causes or procures him to be assaulted, abandoned, exposed or neglected in a manner likely to cause such juvenile or the child unnecessary mental or physical suffering shall be punishable with imprisonment for a term which may extend to six months, or fine, or with both.

26. Exploitation of juvenile or child employee.- Whoever ostensibly procures a juvenile or the child for the purpose of any hazardous employment keeps him in bondage and with-holds his earnings or uses such earning for his own purposes shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

27. Special offences.- The offences punishable under section 23, 24, 25 and 26 shall be cognizable.

28. Alternative punishment.- Where an act or omission constitute an offence punishable under this Act and also under any other Central or State Act, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offences shall be liable to punishment only under such Act as provides for punishment which is greater in degree.

ANNEXURE II

Rules under the Juvenile Justice (Care and Protection of Children) Act 2000 (56 of 2000) (as amended by the Amendment Act 33 of 2006) to be administered by the States [For better implementation and administration of the provisions of the said Act in its true spirit and substance]
(Excerpts)

G.S.R. 679(E) - WHEREAS the Constitution has, in several provisions, including clause (3) of article 15, article 21, article 21A, clauses (1) and (2) of article 22, articles 23 and 24, clauses (e) and (f) of article 39, article 39 A, articles 45, 47 and 51 A (k), impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected;

AND WHEREAS, the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on the 20th November, 1989 and ratified by India on 11th December 1992, emphasizes conferment of rights on children, and reintegration of juveniles and care and protection of vulnerable children, with a view to furthering their right to survival, development, protection and participation;

AND WHEREAS, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990) set the minimum standard to be adhered to in the administration of juvenile justice in respect of juveniles in conflict with law;

AND WHEREAS, the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and all other relevant international instruments focus on the prevention of juvenile delinquency and provide guidelines for it;

AND WHEREAS, to give effect to the provisions of the Constitution and relevant international instruments, the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) as amended by the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (33 of 2006) was enacted to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their developmental needs, and by adopting a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto, through institutional as well as non-institutional measures enumerated under the said Act;

NOW, THEREFORE, with a view to provide for better implementation and administration of the provisions of the said Act in its true spirit and substance, the Central Government in pursuance of the above said provisions and in exercise of the powers conferred by the proviso to sub-section (1) of section 68 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000) hereby makes the following rules and lays down the fundamental principles to be applied in administration of juvenile justice, namely:-

CHAPTER - II

FUNDAMENTAL PRINCIPLES OF JUVENILE JUSTICE AND PROTECTION OF CHILDREN

3. Fundamental principles to be followed in administration of these rules. -

- 1) The State Government, the Juvenile Justice Board, the Child Welfare Committee or other competent authorities or agencies, as the case may be, while implementing the provisions of these rules shall abide and be guided by the principles, specified in sub-rule (2).
- 2) The following principles shall, inter alia, be fundamental to the application, interpretation and implementation of the Act and the rules made hereunder:

I. Principle of presumption of innocence:

- (a) A juvenile or child or juvenile in conflict with law is presumed to be innocent of any

malafide or criminal intent up to the age of eighteen years.

(b) The juvenile's or juvenile's in conflict with law or child's right to presumption of innocence shall be respected throughout the process of justice and protection, from the initial contact to alternative care, including aftercare.

(c) Any unlawful conduct of a juvenile or a child or a juvenile in conflict with law which is done for survival, or is due to environmental or situational factors or is done under control of adults, or peer groups, is ought to be covered by the principles of innocence.

(d) The basic components of presumption of innocence are:

(i) Age of innocence

Age of innocence is the age below which a juvenile or child or a juvenile in conflict with law cannot be subjected to the criminal justice system. The Beijing Rule 4(1) clearly lays down that the beginning of the age of criminal responsibility shall not be fixed at too low an age level bearing in mind the facts of mental and intellectual maturity. In consonance with this principle, the mental and intellectual maturity of juvenile or child or a juvenile in conflict with law below eighteen years is considered insufficient throughout the world.

(ii) Procedural protection of innocence

All procedural safeguards that are guaranteed by the Constitution and other statutes to the adults and that go in to strengthen the juvenile's or child's right to presumption of innocence shall be guaranteed to juveniles or the children or juveniles in conflict with law.

(iii) Provisions of Legal aid and Guardian Ad Litem

Juveniles in conflict with law have a right to be informed about the accusations against them and a right to be legally represented. Provisions must be made for guardian ad litem, legal aid and other such assistance through legal services at State expense. This shall also include such juveniles right to present his case before the competent authority on his own.

II Principle of dignity and worth:

(a) Treatment that is consistent with the child's sense of dignity and worth is a fundamental principle of juvenile justice. This principle reflects the fundamental human right enshrined in Article 1 of the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights. Respect of dignity includes not being humiliated, personal identity, boundaries and space being respected, not being labeled and stigmatized, being offered information and choices and not being blamed for their acts.

(b) The juvenile's or child's right to dignity and worth has to be respected and protected throughout the entire process of dealing with the child from the first contact with law enforcement agencies to the implementation of all measures for dealing with the child.

III. Principle of Right to be heard:

Every child's right to express his views freely in all matters affecting his interest shall be fully respected through every stage in the process of juvenile justice. Children's right to be heard shall include creation of developmentally appropriate tools and processes of interacting with the child, promoting children's active involvement in decisions regarding their own lives and providing opportunities for discussion and debate.

IV. Principle of Best Interest:

(a) In all decisions taken within the context of administration of juvenile justice, the principle of best interest of the juvenile or the juvenile in conflict with law or child shall be the primary consideration.

(b) The principle of best interest of the juvenile or juvenile in conflict with law or child shall mean for instance that the traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice.

(c) This principle seeks to ensure physical, emotional, intellectual, social and moral development of a juvenile in conflict with law or child so as to ensure the safety, well being and permanence for each child and thus enable each child to survive and reach his or her full potential.

V. Principle of family responsibility:

- (a) The primary responsibility of bringing up children, providing care, support and protection shall be with the biological parents. However, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.
- (b) All decision making for the child should involve the family of origin unless it is not in the best interest of the child to do so.
- (c) The family - biological, adoptive or foster (in that order), must be held responsible and provide necessary care, support and protection to the juvenile or child under their care and custody under the Act, unless the best interest measures or mandates dictate otherwise.

VI. Principle of Safety (no harm, no abuse, no neglect, no exploitation and no maltreatment):

- (a) At all stages, from the initial contact till such time he remains in contact with the care and protection system, and thereafter, the juvenile or child or juvenile in conflict with law shall not be subjected to any harm, abuse, neglect, maltreatment, corporal punishment or solitary or otherwise any confinement in jails and extreme care shall be taken to avoid any harm to the sensitivity of the juvenile or the child.
- (b) The state has a greater responsibility for ensuring safety of every child in its care and protection, without resorting to restrictive measures and processes in the name of care and protection.

VII. Positive measures:

- (a) Provisions must be made to enable positive measures that involve the full mobilization of all possible resources, including the family, volunteers and other community groups, as well as schools and other mainstream community institutions or processes, for the purpose of promoting the well-being of the juvenile or child through individual care plans carefully worked out.
- (b) The positive measures shall aim at reducing vulnerabilities and reducing the need for intervention under the law, as well as effective, fair and humane dealing of the juvenile or child.
- (c) The positive measures shall include avenues for health, education, relationships, livelihoods, leisure, creativity and play.
- (d) Such positive measures must facilitate the development of identity for the child and provide them with an inclusive and enabling environment.

VIII. Principle of non-stigmatizing semantics, decisions and actions:

The non-stigmatizing semantics of the Act must be strictly adhered to, and the use of adversarial or accusatory words, such as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail is prohibited in the processes pertaining to the child or juvenile in conflict with law under the Act.

IX. Principle of non-waiver of rights:

- (a) No waiver of rights of the child or juvenile in conflict with law, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the juvenile or child, is either permissible or valid.
- (b) Non-exercise of a fundamental right does not amount to waiver.

X. Principle of equality and non-discrimination:

- (a) There shall be no discrimination against a child or juvenile in conflict with law on the basis of age, sex, place of birth, disability, health, status, race, ethnicity, religion, caste, cultural practices, work, activity or behaviour of the juvenile or child or that of his parents or guardians, or the civil and political status of the juvenile or child.
- (b) Equality of access, equality of opportunity, equality in treatment under the Act shall be guaranteed to every child or juvenile in conflict with law.

XI. Principle of right to privacy and confidentiality:

The juvenile's or child's right to privacy and confidentiality shall be protected by all means and through all the stages of the proceedings and care and protection processes.

XII. Principle of last resort:

Institutionalization of a child or juvenile in conflict with law shall be a step of the last resort after reasonable inquiry and that too for the minimum possible duration.

XIII. Principle of repatriation and restoration:

- (a) Every juvenile or child or juvenile in conflict with law has the right to be re-united with his family and restored back to the same socio-economic and cultural status that such juvenile or child enjoyed before coming within the purview of the Act or becoming vulnerable to any form of neglect, abuse or exploitation.
- (b) Any juvenile or child, who has lost contact with his family, shall be eligible for protection under the Act and shall be repatriated and restored, at the earliest, to his family, unless such repatriation and restoration is likely to be against the best interest of the juvenile or the child.

XIV. Principle of Fresh Start:

- (a) The principle of fresh start promotes new beginning for the child or juvenile in conflict with law by ensuring erasure of his past records.
- (b) The State shall seek to promote measures for dealing with children alleged or recognized as having impinged the penal law, without resorting to judicial proceedings.

CHAPTER - III

JUVENILE IN CONFLICT WITH LAW

11. Pre and Post-Production action of police and other agencies. -

(1) As soon as a juvenile alleged to be in conflict with law is apprehended by the police, the concerned police officer shall inform:

- a) the designated Juvenile or the Child Welfare Officer in the nearest police station to take charge of the matter;
- b) the parents or guardian of the juvenile alleged to be in conflict with law about the apprehension of the juvenile, about the address of the Board where the juvenile will be produced and the date and time when the parents or guardian need to be present before the Board;
- c) the concerned probation officer, of such apprehension to enable him to obtain information regarding social background of the juvenile and other material circumstances likely to be of assistance to the Board for conducting the inquiry.

(2) Soon after apprehension, the juvenile shall be placed under the charge of the Juvenile or Child Welfare Officer from the nearest police station, who shall produce the juvenile before the Board within twenty four hours as per sub-section (1) of section 10 of the Act and where such Juvenile or the Child Welfare Officer has not been designated as per provisions laid down under sub-section (2) of section 63 of the Act or is not available for some official reasons, the police officer who had apprehended the juvenile shall produce him before the Board.

(3) The police apprehending a juvenile in conflict with law shall in no case send the juvenile in lock-up or delay his charge being transferred to the Juvenile or the Child Welfare Officer from the nearest police station, if such an officer has been designated.

(4) A list of all designated Juvenile or the Child Welfare Officers in a district and members of Special Juvenile Police Unit with contact details shall be prominently displayed in every police station.

(5) For gathering the best available information it shall be incumbent upon the Police or the Juvenile or the Child Welfare Officer from the nearest police station, to contact the parents or guardians of the juvenile and also apprise them of the juvenile's law breaking behaviour.

(6) The police or the Juvenile or the Child Welfare Officer from the nearest police station, shall also record the social background of the juvenile and circumstances of apprehension and offence alleged to have been committed in the case diary of each juvenile, which shall be forwarded to the Board forthwith.

(7) The police or the Juvenile or the Child Welfare Officer from the nearest police station, shall exercise the power of apprehending the juvenile only in cases of his alleged involvement in serious offences (entailing a punishment of more than 7 years imprisonment for adults).

(8) In such cases where apprehension apparently seems to be in the interest of the juvenile, the police or the Juvenile or the Child Welfare Officer from the nearest police station, shall rather treat the juvenile as a child in need of care and protection and produce him before the Board, clearly explaining the juvenile's need for care and protection in its report and seek appropriate orders from the Board under rule 13 (1) (b) of these rules.

(9) For all other cases involving offences of non-serious nature (entailing a punishment of less than 7 years imprisonment for adults) and cases where apprehension is not necessary in the interest of the juvenile, the police or the Juvenile or the Child Welfare Officer from the nearest police station, shall intimate the parents or guardian of the juvenile about forwarding the information regarding nature of offence alleged to be committed by their child or ward along with his socio-economic background to the Board, which shall have the power to call the juvenile for subsequent hearings.

(10) In case the Board is not sitting, the juvenile in conflict with law shall be produced before the single member of the Board as per the provisions laid down under the sub-section (2) of section 5 of the Act.

(11) In dealing with cases of juveniles in conflict with law the Police or the Juvenile or the Child Welfare Officer from the nearest police station, shall not be required to register an FIR or file a charge-sheet, except where the offence alleged to have been committed by the juvenile is of a serious nature such as rape, murder or when such offence is alleged to have been committed jointly with adults; instead, in matters involving simple offences, the Police or the Juvenile or the Child Welfare Officer from the nearest police station shall record information regarding the offence alleged to have been committed by the juvenile in the general daily diary followed by a report containing social background of the juvenile and circumstances of apprehension and the alleged offence and forward it to the Board before the first hearing.

(12) The State Government shall recognize only such voluntary organizations that are in a position to provide the services of probation, counseling, case work, a safe place and also associate with the Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, and have the capacity, facilities and expertise to do so as protection agencies that may assist the Police or the Juvenile or the Child Welfare Officer from the police at the time of apprehension, in preparation of the report containing social background of the juvenile and circumstances of apprehension and the alleged offence, in taking charge of the juvenile until production before the Board, and in actual production of the juvenile before the Board within twenty-four hours.

(13) The Police or the Juvenile or the Child Welfare Officer from the Special Juvenile Police Unit, or the recognized voluntary organization shall be responsible for the safety and provision of food and basic amenities to the juveniles apprehended or kept under their charge during the period such juveniles are with them.

(14) When a juvenile is produced before an individual member of the Board, and an order obtained, such order shall need ratification by the Board in its next meeting.

12. Procedure to be followed in determination of Age.-

(1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.

(2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry

shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining -

- (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;
- (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
- (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

13. Post-production processes by the Board.

(2) The Board shall take the following steps to ensure fair and speedy inquiry, namely:-

- (a) at the time of initiating the inquiry, the Board shall satisfy itself that the juvenile in conflict with law has not been subjected to any ill-treatment by the police or by any other person, including a lawyer or probation officer and take corrective steps in case of such ill-treatment;
- (b) in all cases under the Act the proceedings shall be conducted in as simple a manner as possible and care shall be taken to ensure that the juvenile, against whom the proceedings have been instituted, is given child-friendly atmosphere during the proceedings;
- (c) every juvenile brought before the Board shall be given the opportunity to be heard and participate in his inquiry;
- (d) cases of petty offences, if not disposed off by the Special Juvenile Police Unit or at the police station itself, may be disposed off by the Board through summary proceedings or inquiry, while in cases of heinous offences entailing punishment of 7 years or more, due process of inquiry in detail may follow;
- (e) even in cases of inquiry pertaining to serious offences the Board shall follow the procedure of trial in summons cases.

(4) While examining a juvenile in conflict with law and recording his statement, the Board shall address the juvenile in a child-friendly manner in order to put the juvenile at ease and to encourage him to state the facts and circumstances without any fear, not only in respect of the offence of which the juvenile is accused, but also in respect of the home and social surroundings and the influence to which the juvenile might have been subjected.

(5) The Board may take into account the report of the police containing circumstances of apprehension and offence alleged to have been committed and the social investigation report in Form-IV prepared by the Probation officer or the voluntary organization on the orders of the Board as per Form-III, along with the evidence produced by the parties for arriving at a conclusion about the juvenile.

18. Procedure to be followed in respect of sections 21, 22, 23, 24, 25 and 26 of the Act. -

(1) In the event of violation of provisions laid down under section 21 of the Act,-

- (a) the Board shall take cognizance of such violation by print or electronic media and shall initiate necessary inquiry and pass appropriate orders as per provisions contained in subsection (2) of section 21 of the Act; and
- (b) where the National or the State Commission for Protection of Child Rights takes suo motu cognizance of violation under section 21 of the Act, it shall inform the District or the State Child

Protection Unit of the concerned district and the State directing them to initiate necessary action through the Board.

(2) In the event of an escape of a juvenile in conflict with law or a child.

(3) The offences against a juvenile in conflict with law or a child specified in sections 23, 24, 25 and 26 shall be either bailable or non-bailable besides being cognizable under the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) and the procedures shall apply on the Police, the Board and the concerned authorities and functionaries accordingly.

CHAPTER VII

MISCELLANEOUS

84. Special Juvenile Police Unit.-

(1) The State Government shall appoint a Special Juvenile Police Unit at the District level within four months of the notification of these rules and the unit shall consist of a juvenile or child welfare officer of the rank of police inspector and two paid social workers having experience of working in the field of child welfare, of whom one shall be a woman.

(2) The District Child Protection Unit or the State Government shall provide services of its two social workers to the Special Juvenile Police Unit for discharging their duties.

(3) The juvenile or child welfare officer at the police station shall be a person with aptitude and appropriate training and orientation to handle the cases of juveniles or children in terms of the provisions of the Act.

(4) The transfer and posting of the designated Juvenile or Child Welfare Officer shall be within the Special Juvenile Police Units of other police stations or district unit, unless there is an exceptional case of promotion and in such cases, other police officer must be designated and deputed in the unit so that there is no shortfall.

(5) Special Juvenile Police Unit at district level shall coordinate and function as a watch-dog for providing legal protection against all kinds of cruelty, abuse and exploitation of child or juvenile.

(6) The unit shall take serious cognizance of adult perpetrators of crimes against children and see to it that they are without delay apprehended and booked under the appropriate provisions of the law and for this purpose the district level units shall maintain liaison with other units of police station.

(7) The Special Juvenile Police Units shall seek assistance from the voluntary organizations, panchayats and gramshabhas or Resident Welfare Associations in identifying juveniles in conflict with law as well as reporting cases of violence against children, child neglect and child abuse.

(8) The Special Juvenile Police Units shall particularly seek assistance from voluntary organizations recognized as protection agencies by the State Government for the purpose of assisting Special Juvenile Police Units and local police stations at the time of apprehension, in preparation of necessary reports, for taking charge of juveniles until production and at the time of production before the Board as per rule 11 (12) of these rules.

(9) The Superintendent of Police in a district shall head the Special Juvenile Police Unit and oversee its functioning from time to time.

(10) A Nodal Officer from Police not less than the rank of Inspector General of Police shall be designated in each State to coordinate and upgrade role of police on all issues pertaining to care and protection of children or juveniles under Act.

(11) Any police officer found guilty, after due inquiry, of torturing a child, mentally or physically, shall be liable to be removed from service, besides being prosecuted for the offence.

87. Duties of a Probation Officer or Child Welfare Officer or Case Worker.-

(1) Every probation officer or child welfare officer or case-worker shall carry out all directions given by the Board or Committee or concerned authority and shall perform the following duties, functions and responsibilities:

- (a) making social investigation of the juvenile (Form IV) or the child (Form XIII) through personal interview and from the family, social agencies and other sources;
- (b) attending the proceedings of the Board or Committee and submitting reports as and when required;
- (c) clarifying problems of the juvenile or the child and dealing with their difficulties in institutional life;
- (d) participating in the orientation, monitoring, education, vocational and rehabilitation programmes;
- (e) establishing co-operation and understanding between the juvenile or the child and the Officer-in-charge;
- (f) assisting the juvenile or the child to develop contacts with family and also providing assistance to family members;
- (g) developing a care plan for every child in consultation with the juvenile or child and following up its implementation;
- (h) participating in the pre-release programme and helping the juvenile or the child to establish contacts which can provide emotional and social support to juvenile or child after their release;
- (i) establishing linkages with voluntary workers and organizations to facilitate rehabilitation and social reintegration of juveniles and to ensure the necessary follow-up;
- (j) follow-up of juveniles after their release and extending help and guidance to them;
- (k) visiting regularly the residence of the juvenile or child under their supervision and also places of employment or school attended by such juvenile or child and submitting fortnightly reports as prescribed in Form XXI;

89. Disqualification for officer-in-charge, probation officer or child welfare officer or case-worker, house father or house mother and other care givers and staff.-

- (1) The officer-in-charge, probation officer or child welfare officer or case-worker, house father or house mother and other care givers and staff shall not employ a juvenile or child under their supervision or care and protection for their own purposes or take any private service from them.
- (2) Any report of physical, sexual or emotional abuse of a juvenile or a child in an institution or outside, by a caregiver, shall hold them liable for disqualification after due inquiry.

Suggested Contribution - Rs.20/-

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